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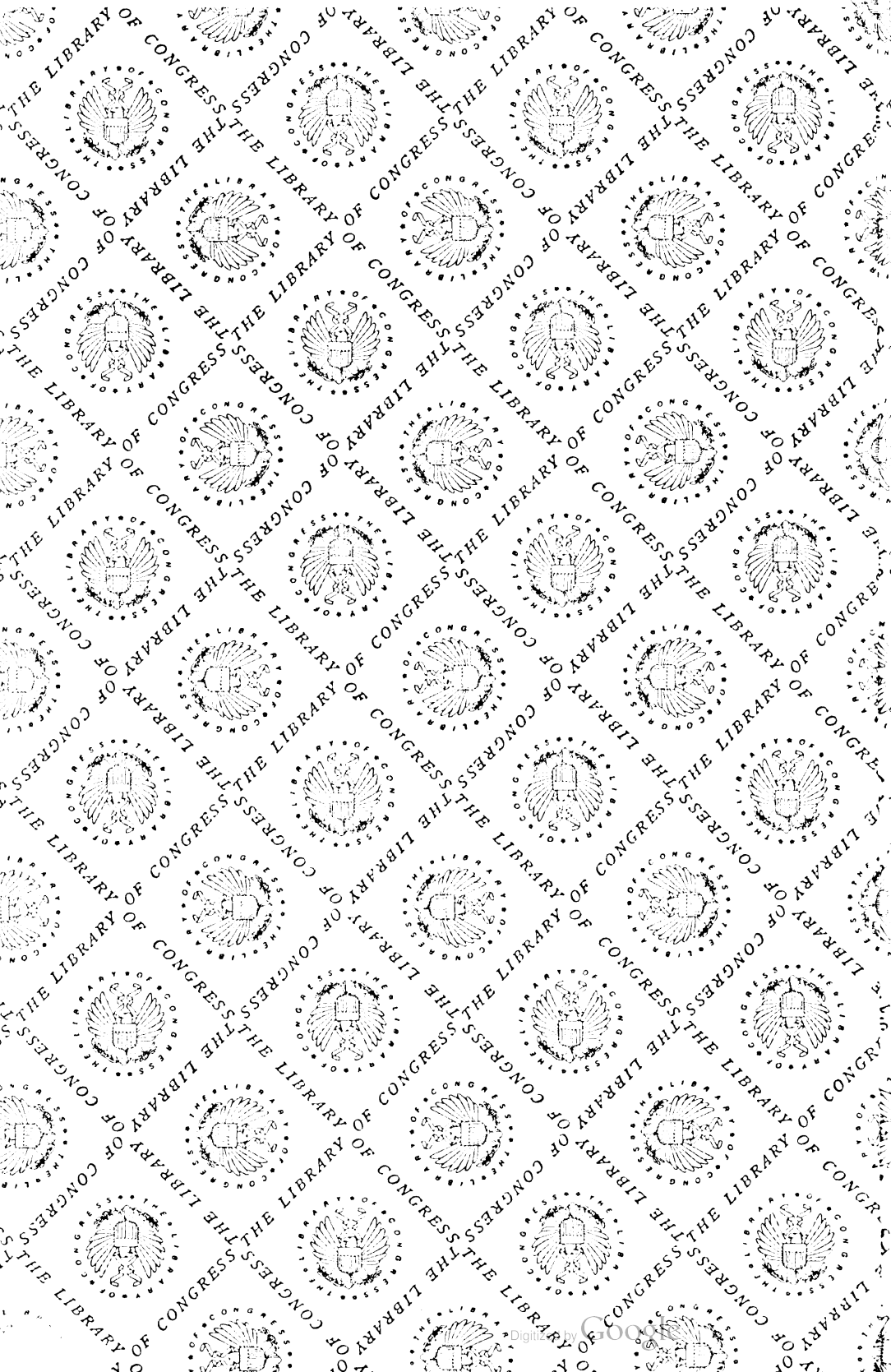
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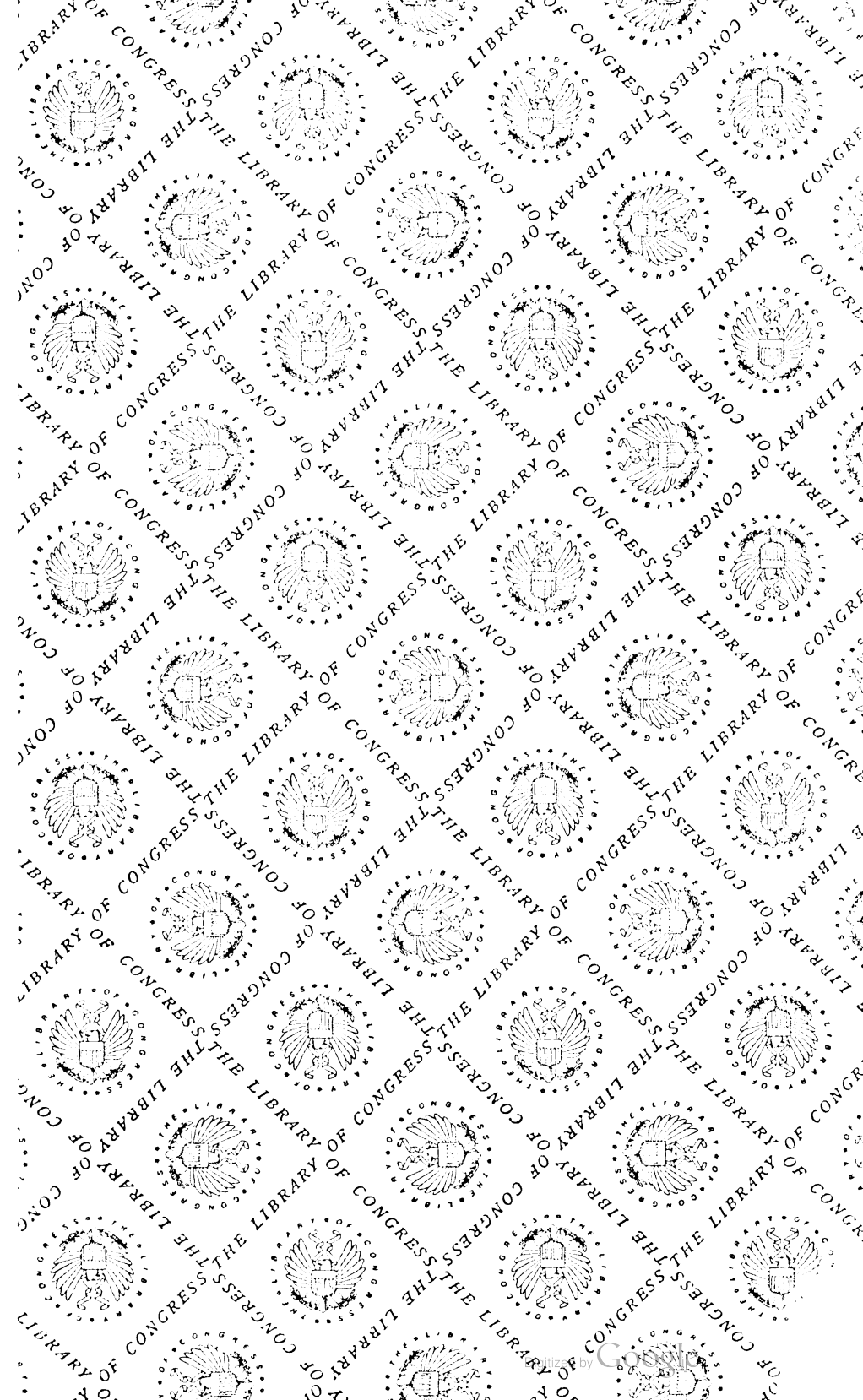


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SPANISH BASE AGREEMENT

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HEARING

BEFORE THE

COMMITTEE ON FOREIGN RELATIONS

UNITED STATES SENATE

NINETY-FIRST CONGRESS

SECOND SESSION

ON

AGREEMENT OF FRIENDSHIP AND COOPERATION BETWEEN
THE UNITED STATES OF AMERICA AND SPAIN,
AUGUST 6, 1970

AUGUST 26, 1970



Printed for the use of the Committee on Foreign Relations

U.S. GOVERNMENT PRINTING OFFICE

WASHINGTON : 1970

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**FOREWORD BY SENATOR J. W. FULBRIGHT,
CHAIRMAN**

I regret that I was unable to attend this particular hearing on the Spanish Base Agreement. My interest in this subject goes back to 1968 when news reports concerning the terms for a new 5-year extension of the 1963 agreement then under negotiation first reached Washington. The Committee on Foreign Relations requested and received briefings in executive session on these negotiations—and particularly the role of the Department of Defense in them—on March 11, April 2 and 14, and June 5, 1969. I believe it is fair to say that partly as a result of this interest the executive branch decided to extend the old agreement (which expired in September 1968) for 2 more years. I might add, the extension included far more modest terms than had been under discussion earlier and more time was taken to negotiate an entire new agreement—a step which I commended at the time.

As these negotiations progressed, the committee continued to be briefed in closed session on April 22 and July 24, 1970. In addition, Senator Symington's Subcommittee on U.S. Security Agreements and Commitments Abroad devoted its executive hearing on July 17, 1970, to U.S. personnel, facilities, and programs in Spain. In the face of these extensive closed-door consultations it was disturbing to me that the administration proceeded in such a hasty manner, by signing an executive agreement, rather than submitting it to the Senate for approval as a treaty.

To complete the record on this matter, and to refrain from repeating myself, I am including in the appendix to this hearing selected statements I made while the Spanish base agreement was under consideration. Senator Frank Church made a full statement on the Spanish negotiations which appeared in the Congressional Record of August 25, 1970, page S14119.

Also, appended to this hearing is a statement which Senator Frank Church made on September 22, 1970, when he introduced a resolution (S. Res. 469) expressing the sense of the Senate that nothing in the Spanish base agreement shall be construed as a national commitment by the United States to come to the defense of Spain.

(III)

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SPANISH BASE AGREEMENT

WEDNESDAY, AUGUST 26, 1970

UNITED STATES SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, D.C.

The committee met, pursuant to notice, at 10:35 a.m., in room 4221, New Senate Office Building, Senator John J. Sparkman presiding.

Present: Senators Sparkman, Church, Symington, Pell, McGee, Case, Cooper, and Javits.

Senator SPARKMAN. Let the committee come to order, please.

Because of a death in his family, Senator Fulbright, the committee chairman, is unable to preside at this session.

OPENING STATEMENT

Under Secretary of State for Political Affairs, Mr. U. Alexis Johnson, and Deputy Secretary of Defense, Mr. David Packard, are meeting with the committee this morning to discuss this agreement of friendship and cooperation between the United States and Spain, which was signed in Washington on August 6.

The agreement was signed as an executive agreement rather than being submitted to the Senate as a treaty, as had been suggested by some members of this committee.

The agreement, with relevant additional material, will be inserted in the record at this point.

(The agreement follows.)

August 6, 1970

DEPARTMENT OF STATE

No. 231

(For the Press—Caution—Future Release)

AGREEMENT OF FRIENDSHIP AND COOPERATION BETWEEN THE UNITED STATES OF AMERICA AND SPAIN

The Governments of the United States of America and Spain,
Conscious of the desires of their respective peoples for peace, security and the maintenance of their independence, and

Recognizing that the security and integrity of each of the two countries continues to be a matter of concern to the other, and

Inspired by the purposes and principles of the Charter of the United Nations, and

Desiring to reaffirm and to further the friendship between their peoples, in the spirit of the Treaty of Friendship and General Relations signed at Madrid July 3, 1902, and

Desiring to establish on a more comprehensive basis the cooperation between the two Governments, which has been fostered by such friendship, so that both Governments, through mutual exchanges and support, may promote the well-being and progress of their peoples enabling them to meet effectively the challenges of the modern world.

Have agreed as follows:

(1)

CHAPTER I

GENERAL COOPERATION

Article 1. The Governments of the United States and Spain will continue their close cooperation and intimate working relationship, including regular mutual consultation by their Foreign Ministers, other members of the Governments, or their representatives, on all matters of common concern or interest, as deemed desirable by the two Governments.

Article 2. Such cooperation and relationship will be developed in those areas in which they have heretofore existed; in new areas deemed by the two Governments to require their urgent mutual attention, as specifically provided hereinafter; and in those other areas which the two Governments may consider appropriate in the future.

CHAPTER II

EDUCATIONAL AND CULTURAL COOPERATION

Article 3. In recognition of the importance of the cultural achievements of both countries, and in order to strengthen even more the friendship and understanding that traditionally have existed between their peoples, the Governments of the United States and Spain agree to expand their present exchanges in the educational and cultural fields, in number as well as in scope, subject to the constitutional processes and legislative requirements of the two countries.

Article 4. The expansion of these exchanges will involve teachers, research experts, scientists, scholars and students, and will extend into all branches of learning, especially natural and applied sciences, economics, and the language and culture of the two countries. In the field of arts and letters both Governments will sponsor visits of authors and artists and the reciprocal dissemination of their works.

Article 5. Both Governments recognize the importance of the Fulbright-Hays program to promote educational and cultural exchanges between the two countries, and therefore they consider it desirable to expand the responsibilities of the Commission for Cultural Exchange between the United States of America and Spain established by the Agreement of October 16, 1958, and renewed by the Agreement of March 18, 1964. The Spanish Government reaffirms its decision to contribute regularly to the financing of the Fulbright-Hays program.

Article 6. In its desire to cooperate with the Spanish Government in the expansion of the Spanish educational system and Spanish scientific and technical development, the Government of the United States, subject to United States legislation and the appropriation of funds by the Congress, will assist Spain in research, development, and advanced training of professors and other teaching personnel, particularly in the scientific disciplines, and training of new professors and other teaching personnel, and will provide documents, equipment, and materials for research laboratories and libraries as appropriate in the new Spanish universities and other centers of higher learning.

Article 7. In order to accomplish the goals of Article 6, the Government of the United States will consider with the greatest interest the specific programs that Spain presents to it in the fields mentioned in Article 6, and will cooperate in such programs, lending such assistance as the United States may provide subject to United States legislation and the appropriation of funds by the Congress. To the extent necessary and appropriate, these matters will be the subject of special agreements between the appropriate authorities of the two Governments.

Article 8. The two Governments consider it a matter of special interest to increase the knowledge of their respective languages in the two countries, by encouraging the activities of institutions and organizations that engage in the teaching of Spanish and the dissemination of Spanish culture in the United States, and at the same time encouraging the activities of institutions and organizations in Spain that carry on similar work with respect to the language and culture of the United States.

CHAPTER III

SCIENTIFIC AND TECHNICAL COOPERATION

Article 9. Since science and technology are increasingly important for the development of a country, the Governments of the United States and Spain recognize that scientific and technical cooperation will be of great value in advancing the bonds of friendship, the state of the sciences and the resolution of the problems they share in common. Both Governments also recognize the desirability

of devoting special attention to cooperation in the exchange of the results of scientific and technical research for their mutual economic and social benefits.

Article 10. Both Governments will undertake a broad program of scientific and technical cooperation for peaceful purposes.

Article 11. The cooperation between the two Governments will be based essentially on the following principles:

(a) Selection of specific scientific and technical sectors of major interest and yield.

(b) Preparation of plans for collaboration between research centers of the two countries.

(c) Programs for sending to Spain American professors and researchers of established reputation to cooperate in the advanced training of scientific and technological researchers.

(d) The establishment of appropriate channels for putting into operation, developing and supervising specific programs of scientific and technical cooperation.

Article 12. For the purposes of this Chapter, the two Governments consider the following areas, among others, to be of special interest:

(a) Civil uses of atomic energy, in accordance with the agreement of August 16, 1957, as amended.

(b) The exploration and use of space, including intercontinental experiments with satellite communications, in accordance with the exchange of notes of September 18, 1964, and January 26, 1965; spaceship tracking stations and operations, in accordance with the exchange of notes of April 14, 1966; and the measurement of winds and temperatures at high altitudes, in accordance with the exchange of notes of April 14, 1966.

(c) Marine sciences, including joint biological, physical and ecological projects to improve and increase the oceanic resources and their use.

(d) Medical and biological sciences, industrial technology, electronics and social sciences.

Article 13. Any obligations arising pursuant to this Chapter shall be subject to the constitutional processes and legislative requirements of the respective countries.

CHAPTER IV

COOPERATION ON ENVIRONMENTAL AND URBAN DEVELOPMENT PROBLEMS

Article 14. The Governments of the United States and Spain recognize that among the principal problems with which their peoples are faced are the dangers to which man is exposed by the deterioration of his environment. Both Governments agree on the need to give urgent attention to such problems and they will begin consultations in order to determine how to coordinate their mutual efforts for their solution.

Article 15. Cooperation for the purposes stated in the foregoing Article will be effected through the exchange of information, the development of teaching and research centers, the training of personnel in specialized institutions, the sending of experts, and the supply of material for carrying out projects of common interest.

Article 16. The fields in which cooperation will be developed will be as follows:

(a) The fight against pollution in all its forms, especially in the atmosphere, in waters and in the soil;

(b) Ecology and wildlife conservation;

(c) Urban and regional planning, including urban renewal and improvement, traffic control, reduction of noise, and protection of the landscape.

CHAPTER V

AGRICULTURAL COOPERATION

Article 17. The Governments of the United States and Spain recognize that the agricultural sector is of great mutual interest and that it may hold opportunities for exchange of knowledge and assistance; therefore the two Governments agree to study expanding their cooperation in this field.

Article 18. For the purpose of developing the cooperation referred to in the preceding Article, both parties will study the harmonization of standards and common agricultural sanitation provisions; the possibility of carrying out transactions in agricultural surpluses under a system of concessional sales for social or charitable purposes; the preparation of joint plans for teacher training, not only in the classic agricultural disciplines (e.g. agronomy, zootechny, genetics, soil science, horticulture, agricultural engineering) but also in the more modern

branches (e.g. food technology, marketing of farm products, rural economics and sociology, forest management); the feasibility of exchange of university professors and agricultural researchers of both countries; scholarships for graduates in agricultural sciences; and the exchange of information on scientific and technical progress in agriculture.

Article 19. In the cooperation between the two Governments, special attention will be given to the Spanish programs of rural management, irrigation, reforestation, and the development of the livestock industry.

Article 20. The two Governments will undertake to exchange their technical knowledge and experience acquired in the sectors named in the preceding Article, whenever possible, including information on the economic aspects of the agricultural market, and to that end they will promote the exchange of technicians and experts in the preparation and execution of such programs.

CHAPTER VI

ECONOMIC COOPERATION

The Governments of the United States and Spain, desiring to maintain and expand their present cooperation, have examined the situation of their economies in the world context and have reaffirmed their determination to advance and develop economic relations, and to that end they have agreed as follows:

Article 21. The two Governments reaffirm their determination to expand their trade relations, and consequently they will seek to avoid, insofar as possible and to the extent allowed by their respective economic situations and the development of their balances of payments, measures that effect restrictions on the flow of their reciprocal trade, in accordance with the provisions of the General Agreement on Tariffs and Trade.

Article 22. The two Governments consider it desirable to have a normal flow of United States direct investments in Spain, and to that end they will adopt, provided the United States balance of payments so permits, the necessary measures for encouraging the development of such investment. A similar criterion shall be applied, insofar as circumstances permit, to reducing restrictions imposed by the United States for balance of payments reasons on the purchase of foreign securities, including Spanish securities, by United States citizens in the United States.

Article 23. The two Governments recognize that the loans granted by the Export-Import Bank of the United States have been an important stimulus for the purchase of United States capital goods by Spanish enterprises. Consequently, they will continue in the future to facilitate and give maximum attention to the development of these financial relations.

Article 24. The Government of Spain reiterates its objectives of achieving by progressive steps its full integration in the European Community. The Government of the United States declares its sympathetic understanding of Spain's objectives of full integration. The two Governments agree to consult with each other and to keep in close contact in seeking to arrive at mutually satisfactory solutions for any problems of principle or procedure as may arise for either of them in this connection.

Article 25. The two Governments will exchange information on the negotiations now in progress for the establishment of a generalized system of preferences in favor of developing countries.

Article 26. The two Governments reaffirm their interest in continuing the consultations of the Joint Spanish-United States Economic Committee created in 1968, maintaining the competence and terms of reference vested in it in the exchange of notes of July 15, 1968, for the examination of financial and other economic matters of mutual interest. The Committee will meet alternatively in Washington and Madrid at mutually convenient times, under the chairmanship of representatives of appropriate level designated by their respective Governments.

CHAPTER VII

COOPERATION WITH RESPECT TO PUBLIC INFORMATION

Article 27. The Governments of the United States and Spain recognize the value and significance that have been attained in present times by the information media, and they reaffirm their interest in strengthening their cooperation in this field.

Article 28. In order that public opinion in their respective countries may develop a better mutual understanding, both Governments will encourage by all means at their disposal the exchange of radio and television programs, will mutually

assist their respective information media, and will prepare an effective long-range plan for exchange in all fields of information dissemination.

Article 29. The two Governments reaffirm their desire to continue and to expand the exchange of their respective official publications.

CHAPTER VIII

COOPERATION FOR DEFENSE

The Governments of the United States and Spain are in agreement in considering that the threat to peace is the greatest problem faced by the modern world, and that it requires that both Governments remain vigilant and continue to develop their ability to defend themselves against such a threat. Consequently, both Governments, within the framework of their constitutional processes, and to the extent feasible and appropriate, will make compatible their respective defense policies in areas of mutual interest, and will grant each other reciprocal defense support as follows:

Article 30. Each Government will support the defense system of the other and make such contributions as are deemed necessary and appropriate to achieve the greatest possible effectiveness of those systems to meet possible contingencies, subject to the terms and conditions set forth hereinafter.

Article 31. The Government of the United States agrees to support Spanish defense efforts, as necessary and appropriate, by contributing to the modernization of Spanish defense industries, as well as granting military assistance to Spain, in accordance with applicable agreements. This support will be conditioned by the priorities and limitations created by the international commitments of the United States and the exigencies of the international situation and will be subject to the appropriation of funds by the Congress, whenever the case so requires, and to United States legislation.

Article 32. The Government of Spain, subject to Spanish constitutional provisions and legislation in force, will authorize the Government of the United States to use and maintain for military purposes certain facilities in Spanish military installations agreed upon by the two Governments. Any major construction that may be necessary for the exercise of this use shall be subject to agreement between the two Governments in the Joint Committee created in Article 36 of this Chapter. The United States is further authorized to station and house the civilian and military personnel necessary for such use; to provide for their security, discipline, and welfare; to store and guard provisions, supplies, equipment and materiel; and to maintain the services necessary for such purposes. The exercise of the functions authorized herein shall be subject to such express terms and technical conditions as the two Governments may agree upon.

Article 33.

(a) The Government of Spain assumes the obligation of adopting the security measures necessary for the exercise of the functions authorized in Article 32. The United States may exercise the necessary supervision and protection of its personnel, equipment and materiel.

(b) The above-mentioned use by the Government of the United States of facilities in Spanish military installations will be free of all taxes, charges and encumbrances. The Government of Spain will retain free of all charges the ownership of all permanent works constructed for the purpose of this Agreement.

(c) The Government of the United States may remove at any time nonpermanent constructions installed at its expense, as well as its personnel, property, equipment and materiel. However, any substantial removal prior to the expiration of this Agreement will be the subject of prior consultation of the two Governments in the Joint Committee. In the event that any such removal would bring about adverse security consequences, the two Governments will consult immediately in order to adopt appropriate measures.

(d) Whenever the Government of the United States relinquishes a facility authorized in this Chapter, either prior to or as a result of the expiration of the five or ten year period specified in Article 38, the Government of the United States shall not be obligated to leave such facility in the same state and condition it was in prior to its utilization by the Government of the United States, or to compensate Spain for not having returned it in such state, but shall leave the land and permanent constructions thereon in serviceable condition for use by Spanish authorities, provided that the Government of the United States shall incur no additional expense thereby.

(e) In normal circumstances any substantial increase in the personnel or military equipment of the United States in Spain, or any substantial increase in the use by the United States of facilities in Spanish military installations regulated by this Agreement, will be the subject of prior consultation in the Joint Committee and agreed upon between the two Governments through diplomatic channels.

Article 34. In the case of external threat or attack against the security of the West, the time and manner of the use by the United States of the facilities referred to in this Chapter to meet such threat or attack will be the subject of urgent consultations between the two Governments, and will be resolved by mutual agreement in light of the situation created. Such urgent consultations shall take place in the Joint Committee, but when the imminence of the danger so requires, the two Governments will establish direct contact in order to resolve of the matter jointly. Each Government retains, however, the inherent right of self-defense.

Article 35. Both Governments consider it necessary and appropriate that the cooperation for defense regulated by this Chapter form a part of the security arrangements for the Atlantic and Mediterranean areas, and to that end they will endeavor to work out by common accord the liaison deemed advisable with the security arrangements for those areas.

Article 36. In order to establish the necessary coordination between the two Governments and to ensure greater effectiveness of the reciprocal defense support granted by the two Governments to each other, the Governments of the United States and Spain agree to establish a Joint Committee on defense matters. The Joint Committee will be the organ in which the two Governments normally will consult with each other and resolve matters that may arise in connection with the reciprocal defense support referred to in this Chapter. The Joint Committee will be organized and will function as specified in the Annex of this Agreement.

Article 37. The two Governments will determine by common accord, through an exchange of notes on this date, the facilities referred to in Article 32 of this Chapter, as well as the United States force levels in Spain and the assistance programs referred to in Article 31 of this Chapter. Thereafter any change in the number or extent of such facilities will be negotiated in the Joint Committee and agreed upon between the two Governments through an exchange of notes.

CHAPTER IX

FINAL PROVISIONS

Article 38. This Agreement shall enter into force on September 26, 1970, and will remain in force for five years, whereupon it may be extended, if both Governments agree, for another five years.

Article 39. In order to facilitate the withdrawal of the personnel, property, equipment and material of the Government of the United States located in Spain pursuant to Chapter VIII of this Agreement, a period of one year, during which the withdrawal must be completed, is provided. Such withdrawal shall be commenced immediately upon the expiration of the five year initial period, or, if the Agreement is extended, upon the expiration of the five year extension period. During the withdrawal period above mentioned, not to exceed one year, all of the rights, privileges and obligations deriving from Chapter VIII of this Agreement shall remain in force as long as United States troops remain in Spain.

Article 40. The entry into force of this Agreement will in no way affect the validity or terms of any agreement existing between the Governments of the United States and Spain, with the exception of the Defense Agreement between the United States and Spain, dated September 26, 1953, and its supplementary agreements which shall thereupon be superseded.

Done at Washington in duplicate, in the English and Spanish languages, each of which shall be equally authentic, this sixth day of August, 1970.

For the Government of the United States of America:

WILLIAM P. ROGERS,
Secretary of State.

For the Government of Spain:

GREGORIO LOPEZ BRAVO,
Minister of Foreign Affairs.

ANNEX

1. The Joint Committee established in Article 36 of Chapter VIII of the Agreement of Friendship and Cooperation Between the United States of America and Spain signed on August 6, 1970, will be composed of the Foreign Minister of Spain and the United States Ambassador to Spain as Co-Chairmen, with the Chief of the Spanish High General Staff and the Commander-in-Chief, United States European Command as their military advisers.

2. The Joint Committee will be permanent throughout the term of the aforesaid Agreement and shall be organized so as to function on a continuous basis.

3. The Joint Committee shall have its headquarters in Madrid, but may hold meetings in other places at the request of either of the two Governments, such places to be determined by mutual agreement.

4. A permanent Secretariat of the Joint Committee shall be established, composed of two members representing each of the two Governments, who shall be charged with the daily handling of routine matters and the preparation of those matters which must be submitted to the Joint Committee for considerations.

5. The Joint Committee will establish such subcommittees as may be appropriate for the discharge of its responsibilities.

6. Subordinate to the Joint Committee, as a Subcommittee thereof, there will be a Joint Air Control and Coordination Center, to maintain and operate a system of warning for air space defense, to assist in the regulation of air traffic, and to provide a means for coordination of the actions of the U.S. and Spanish forces. The details of the organization and initial tasks of the Joint Air Control and Coordination Center will be determined by the Joint Committee within two months following the entry into force of this Agreement.

7. The Joint Committee will be assisted by the civilian and military personnel necessary for the fulfillment of its purposes.

8. The Joint Committee shall report to the two Governments on its activities on a monthly basis, and in all cases when the importance of the matter so indicates.

9. The Joint Committee shall prepare and present to both Governments an annual plan to facilitate making compatible their respective defense policies in areas of mutual interest pursuant to Chapter VIII of the aforesaid Agreement.

10. The Government of Spain will provide adequate premises for the Joint Committee. The Co-Chairmen shall determine personnel and administrative needs and arrange for the preservation of the Joint Committee's records and archives.

THE SECRETARY OF STATE,
Washington, August 6, 1970.

HIS EXCELLENCY GREGORIO LOPEZ BRAVO,
Minister of Foreign Affairs of Spain.

DEAR MR. MINISTER: During the term of the new Agreement of Friendship and Cooperation Between the United States of America and Spain, signed on behalf of our two Governments on this date, the Government of the United States is prepared to contribute to the funding of various non-military projects as are specifically agreed upon pursuant to the spirit and letter of the Agreement, subject, when necessary, to Congressional authorization and to the availability of funds.

It is understood that the Executive Branch of the United States Government assumes an obligation to seek any necessary appropriations from the Congress for funding of such agreed non-military projects above described.

Sincerely yours,

WILLIAM P. ROGERS.

AUGUST 6, 1970.

HIS EXCELLENCY GREGORIO LOPEZ BRAVO,
Minister of Foreign Affairs of Spain.

DEAR MR. MINISTER: During the Fiscal Year 1971, the United States Government would be prepared to fund up to \$3 million of such non-military projects as may be agreed upon pursuant to the Agreement of Friendship and Cooperation signed between the United States and Spain on this date.

Additionally, the Commission for Educational Exchange between the United States and Spain (Fulbright Commission) is now devoting its efforts to educational reform. Apart from the above mentioned \$3 million, the Department of State expects to increase its contribution to the Commission this year, thus enhancing its capacity to contribute to the fulfillment of the Spanish educational plan.

Sincerely yours,

WILLIAM P. ROGERS.

AUGUST 6, 1970.

His Excellency GREGORIO LOPEZ BRAVO,
Minister of Foreign Affairs of Spain.

EXCELLENCY: I have the honor to refer to the Agreement of Friendship and Cooperation Between the United States of America and Spain signed today, August 6, 1970. In accordance with Article 37 of the Agreement, I wish to advise you that the intentions of my Government regarding military assistance for Spain, pursuant to Article 31 of the Agreement, which I understand are acceptable to the Government of Spain, are as follows:

(a) The United States Government is prepared to assist the Government of Spain to apply Export-Import Bank credits to the purchase of the following equipment:

36 F-4C Phantom fighter bomber aircraft including necessary accessories and ground equipment for 36 aircraft

2 KC-130 aircraft

3 P-3 aircraft

4 SH-3D helicopters

4 Huey Cobra helicopters

6 C-130 A or B aircraft

Equipment for the territorial command net of Spanish Army

(b) The Government of the United States will seek to obtain from Congress the necessary funds for the following purposes:

(1) Coverage of 70% of the cost, which is not expected to exceed a total of \$50 million, of modernizing and semi-automating the existing aircraft control and warning network in Spain.

(2) Training of Spanish personnel to operate and maintain the United States origin military equipment acquired by Spain.

(3) Military equipment for land forces:

1 battalion of M48 tanks (54)

2 battalions and 2 batteries of 105 MM Howitzer M108 (48)

1 battalion of 155 MM Howitzer M109 (18)

1 battalion Armored Personnel Carriers

—49 M113 Armored Personnel Carriers

—4 M106 Mortar Carriers

—7 M577 Command Post Carriers

16 Huey UH-1H helicopters

1 battalion of 175 MM Guns M107 (12)

(c) The Government of the United States intends to loan to the Government of Spain the following vessels, subject, where necessary, to obtaining authorizing legislation:

Type	Quantity	Class of Ship
Submarines.....	2.....	Guppy 1A and 11A.
Destroyers.....	5.....	Various: English, Sumner, Lavalette, Lloyd Thomas.
Ocean minesweepers.....	4.....	Aggressive.
Landing ships.....	3 LST.....	Chelan County.
Auxiliaries.....	1 ammunition ship.....	Wrangell.
	1 oiler.....	Cimarron.

(d) The Government of the United States is prepared to make available to Spain machine tools appropriate for use in the manufacture of munitions, subject to specific agreements with the Government of Spain.

(e) The Government of the United States is prepared to relinquish to Spain the Rota-Zaragoza pipeline, subject to the provisions of a procedural annex.

(f) The Government of the United States relinquishes any and all claims against the Government of Spain for the residual value of the permanent structures constructed under the Defense Agreement between the United States of America and Spain signed September 26, 1953.

I further wish to advise you that it is the understanding of my Government that the United States of America, subject to Spanish Constitutional provisions and legislation in force, is authorized to use and maintain for military purposes with the appropriate military personnel the facilities in or connected with the following Spanish military installations:

Torrejon Air Base

Zaragoza Air Base

Moron Air Base (standby)

Rota Naval Base

Cadiz-Zaragoza petroleum pipeline and pumping facilities Petroleum and other storage facilities Communications and navigational network support facilities

I should appreciate your confirmation of the foregoing understandings on behalf of the Government of Spain.

Accept, Excellency, the assurances of my highest consideration.

SECRETARY OF STATE OF THE
UNITED STATES OF AMERICA.

AUGUST 6, 1960

His Excellency,
GREGORIO LOPEZ BRAVO,
Minister of Foreign Affairs of Spain.

EXCELLENCY: I have the honor to refer to the Agreement of Friendship and Cooperation Between the United States of America and Spain concluded on this date.

I should like to confirm our understanding that, in the event the Agreement in Implementation of Chapter VIII of the Agreement is not concluded by September 26, 1970, then the two Governments will be guided by the following considerations in implementing Chapter VIII of the Agreement during the period from September 26, 1970, to the date on which such Agreement in Implementation is concluded:

1. Effect will be given to those separate sections, articles and procedural annexes of the proposed Agreement in Implementation which have been initialed as approved by the authorized representatives of the United States and Spain as of September 26, 1970. Effect will be given to those sections, articles and procedural annexes which are initialed thereafter and prior to the conclusion of the full Agreement in Implementation as of the date on which they are initialed.

2. With respect to the matters covered by those separate sections, articles and annexes not yet initialed as of September 26, 1970, the Government of Spain will continue to safeguard, consistent with prevailing practices and within the spirit and letter of Chapter VIII of the Agreement, the rights, privileges and immunities of the Government of the United States until such time as the new sections, articles and procedural annexes are initialed.

I should like to propose that, if agreeable to your Government, this note, together with your reply, shall constitute an agreement between our two Governments relating to the implementation of the Agreement, with effect from September 26, 1970.

Accept, Excellency, the assurances of my highest consideration.

SECRETARY OF STATE OF THE
UNITED STATES OF AMERICA.

Mr. SPARKMAN. Mr. Secretary, I believe you have a statement that you wish to present at this time. You may proceed as you see fit.

**STATEMENT OF HON. U. ALEXIS JOHNSON, UNDER SECRETARY OF
STATE FOR POLITICAL AFFAIRS, ACCOMPANIED BY HON. DAVID
PACKARD, DEPUTY SECRETARY OF DEFENSE**

Mr. JOHNSON. Thank you, Mr. Chairman.

I welcome this opportunity in this hearing to further discuss with this committee this question of this agreement.

At the outset of the hearing I would like, in addition to the agreement itself and its relevant papers which were previously furnished to the committee, I would like to insert in the record the joint statement that was issued by Secretary Rogers and the Spanish Foreign Minister on August 6 at the time of the signing of the agreement.

Mr. SPARKMAN. Without objection, that will be inserted.

(The document follows.)

AUGUST 6, 1970.

DEPARTMENT OF STATE

(For the Press—Caution—Future Release)

JOINT STATEMENT

The Spanish Foreign Minister, Gregorio Lopez Bravo, and Secretary of State William P. Rogers today signed an Agreement of Friendship and Cooperation. This Agreement, which replaces the Defense Agreement of 1953 and extensions thereof, initiates a new era in partnership between the United States and Spain.

The new accord comprehends various fields of existing cooperation between the two countries. Among them are education, agriculture, environment, space, science and technology, as well as defense.

Such an agreement reflects the manner in which cooperation between the two countries has come to include new dimensions since the early 1950's. At that time, it was a matter of urgency to establish the joint-use bases in Spain to strengthen the defensive capability of the West. Under the new agreement, the United States will be permitted to use certain Spanish military facilities, which are still of great importance in Western defense. The United States will undertake to assist Spain in strengthening its own defense system.

In addition, the new agreement also takes into account the many nonmilitary fields in which both countries now have close mutual interest. An example of such an area is space; Spanish tracking stations, manned by personnel from both countries, have played an important role in the Apollo flights. The field of educational exchanges, having already become a fruitful area of cooperation, promises to assume an even greater importance with the adoption of an extensive educational reform program by the Government of Spain.

Both Governments intend this agreement, the text of which is being made public, to promote the well-being and progress of their peoples and, moreover, to make a positive contribution to world peace in accordance with the purposes and principles of the Charter of the United Nations.

Mr. JOHNSON. I would also like to insert the statement that I submitted to this committee on the same day, in amplification of my previous testimony before this committee on the reasons the Administration entered into an agreement of friendship and cooperation with the Government of Spain, and why it was felt that this should be done in the form of an executive agreement. This is the text of my statement furnished to the committee.

Mr. SPARKMAN. Let that also be inserted.
(The statement follows.)

August 6, 1970

No. 231-B

DEPARTMENT OF STATE

(For the Press—Caution—Future Release)

STATEMENT OF U. ALEXIS JOHNSON, UNDER SECRETARY FOR POLITICAL AFFAIRS, DEPARTMENT OF STATE, TO SENATE FOREIGN RELATIONS COMMITTEE REGARDING AGREEMENT OF FRIENDSHIP AND COOPERATION WITH SPAIN

In accordance with the discussion that Deputy Secretary of Defense Packard and I had with the Committee on July 24, I am submitting the following unclassified statement in amplification of our testimony on the reasons the Administration is entering into an Agreement of Friendship and Cooperation with the Government of Spain and why it is felt that this should be done in the form of an Executive Agreement.

In 1953, after obtaining the concurrence of the Senate leaders, including the leaders of the Foreign Relations Committee, an Agreement was signed with Spain known as the 1953 Defense Agreement, pursuant to which the United States Government was granted rights to establish and maintain certain military facilities in Spain. For its part the United States Government undertook in the 1953 Agreement "the support of Spanish defense efforts for agreed purposes to provide military end-item assistance to Spain." The United States Government obligations were thus limited to providing military equipment, and no defense commitment was given to Spain, either in the Agreement or otherwise.

During the Kennedy Administration in 1963, the Defense Agreement with Spain was extended five years, to September 26, 1968, and on the occasion of the extension representatives of the two Governments signed a Joint Declaration.

Upon the expiration of the five-year extension in 1968, the United States Government and Spain began negotiations, at the request of Spain, of a new agreement. Ultimately, it was decided, on June 20, 1969, to extend the former Agreement just two years, until September 26, 1970, which extension was calculated to provide both sides adequate time to negotiate and conclude the new Agreement.

During these 17 years of friendly cooperation under the 1953 Agreement the United States Government has been permitted to establish and maintain in Spain three joint-use air bases and one joint-use naval base, including associated supported facilities. Our total original investment in these facilities is approximately \$400 million. Our present force strength in Spain is approximately 10,000 military personnel. These bases have supported important missions of SAC, MAC, Air Defense, antisubmarine warfare units, Sixth Fleet supply and, most significantly, our Polaris Submarine force. During this period we have made grant military assistance available to Spain. All of these activities and expenditures were specifically authorized and funded by the Congress after appropriate study, hearing and debate.

The Administration has most carefully considered the question of whether or not to seek to continue maintaining these facilities in Spain, and after thorough review by all authorities concerned, particularly the Department of Defense and the Department of State, the President decided that we should do so. The Committee was informed of this decision and the general outlines we envisaged for the new Agreement by Deputy Secretary Packard and myself at a hearing on April 22, 1970. These negotiations have not been concluded successfully.

The broad compass of U.S. operating facilities, which will continue to be made available to us by Spain under this new Agreement, continues to be important in (a) maintaining our general deterrent posture in the Mediterranean area, (b) providing the infrastructure to support our forces deployed in Europe and the Mediterranean, and (c) contributing to our world-wide strategic and tactical mobility. The facilities in Spain contribute to our deterrent strength, particularly by providing maximum coverage for our Polaris-equipped submarines. Thus all of our facilities in Spain are defensive and deterrent in nature and will contribute to the maintenance of peace and avoidance of conflict.

Our overall Mediterranean security posture would be considerably degraded were these bases not available. Although it is possible to conceive of alternative locations for some of the functions presently performed in Spain, in some cases political considerations would make relocation difficult or impossible, and in any event any such relocation would be very expensive. Many of the relocations would not be adequate substitutes. Our Polaris Fleet ballistic missile alert coverage would be lessened. Our staging facilities to support our forces in the event of a crisis would also be reduced. These are just two examples.

Most importantly, however, some of the facilities are not replaceable elsewhere. The geographic location of Spain obviously cannot be duplicated, especially the favorable terrain and weather conditions for aerial weapons training required to keep our European air defense forces in a high state of readiness, and the privilege of overflight is important. Since we have been deprived of our former bases in other areas, this factor of geography has taken on increased significance.

In short, we think that our strategic posture, and tactical strength and logistic capabilities make it important that we continue to maintain military facilities in Spain.

However, both Spain and the United States Government realize that times have changed significantly since 1953, and that true friendship and international peace must rest on the foundations of cooperation which go far beyond strictly military base agreements. Therefore, the Agreement which has been negotiated covers a number of areas of cooperation, including education, science, cultural exchange and many others, in addition to military cooperation. We believe that in the coming decade such a broad agreement will provide a firmer base for the development of our bilateral relations with Spain.

The question has been raised as to whether the proposed Agreement of Friendship and Cooperation contains a commitment by the United States to defend Spain and if it does, whether it should be submitted to the Senate for its advice and consent to ratification. I entirely agree that were the proposed Agreement of Friendship and Cooperation to contain such a commitment as, for example, is contained in the North Atlantic Treaty, the Southeast Asia Collective

Defense Treaty, or the Security Treaty with New Zealand and Australia, or our various bilateral mutual defense treaties, the Agreement should be submitted to the Senate for its advice and consent to ratification. However, as I have stated, the proposed Agreement contains no such commitment.

I suggest that the Agreement be viewed as a whole. The Preamble and Chapter I basically are introductory. The rest of the Agreement provides for US-Spain cooperation in seven areas as follows:

- Education and Cultural Cooperation (Chapter II)
- Scientific and Technical Cooperation (Chapter III)
- Cooperation on Environmental and Urban Development Problems (Chapter IV)
- Agricultural Cooperation (Chapter V)
- Economic Cooperation (Chapter VI)
- Cooperation with Respect to Public Information (Chapter VII)
- Cooperation for Defense (Chapter VIII)

Chapters II through VII cover areas, such as Fulbright Educational Exchanges, which are, as they traditionally have been, the subject of Executive Agreements rather than treaties. In fact, four of these six chapters cover subjects on which Spain and the United States have already existing Executive Agreements. In addition, all of the pertinent operative clauses of the Agreement, in both its non-military and military aspects, expressly provide that all obligations arising thereunder are subject to the availability of appropriated funds. I would hope the Committee would welcome our plans to cooperate, within the framework of the new Agreement, in such a valuable program to the Spanish people as the comprehensive Spanish education reform law, to be put in effect shortly.

I understand that the Committee's chief concern centers around the preambular language in Chapter VIII (Cooperation for Defense) and Article 30, which state as follows:

"The Governments of the United States and Spain are in agreement in considering that the threat to peace is the greatest problem faced by the modern world, and that it requires that both Governments remain vigilant and continue to develop their ability to defend themselves against such a threat. Consequently, both Governments, within the framework of their constitutional processes, and to the extent feasible and appropriate, will make compatible their respective defense policies in areas of mutual interest, and will grant each other reciprocal defense support as follows:

"Article 30. Each Government will support the defense system for the other and make such contributions as are deemed necessary and appropriate to achieve the greatest possible effectiveness of those systems to meet possible contingencies, subject to the terms and conditions set forth hereinafter."

It should be noted at this point that "the terms and conditions" referred to in Article 30 provide only that the United States will make available to Spain military equipment and training and help in modernizing Spanish defense industries and for its part Spain will authorize the United States to use and maintain certain military facilities in Spain, as set forth in Articles 31 and 32:

"Article 31. The Government of the United States agrees to support Spanish defense efforts, as necessary and appropriate, by contributing to the modernization of Spanish defense industries, as well as granting military assistance to Spain, in accordance with applicable agreements. This support will be conditioned by the priorities and limitations created by the international commitments of the United States and the exigencies of the international situation and will be subject to the appropriation of funds by the Congress, whenever the case so requires, and to United States legislation.

"Article 32. The Government of Spain, subject to Spanish constitutional provisions and legislation in force, will authorize the Government of the United States to use and maintain for military purposes certain facilities in Spanish military installations agreed upon by the two Governments"

As I have noted, the Agreement thus contains no language such as is found in our bilateral and multilateral mutual defense treaties. It is not provided that an armed attack against one party shall be considered an attack against the other, such as the North Atlantic Treaty and the Rio Pact provide, or that such an attack would be dangerous to the "peace and safety" of the United States or that the United States "would act to meet the common danger in accordance with its constitutional processes" as provided in our other mutual defense treaties.

In recognition of the concern expressed by some members of this Committee, the 1963 Joint Declaration language has been dropped. The Joint Declaration itself lapses upon the entry into force of the new Agreement.

Our approach to the problem of the defense of Europe has been collective and multilateral, not bilateral, and we have always viewed Spanish entry into the North Atlantic Treaty Organization, when that should prove possible, as the preferred solution for the defense of all of Western Europe, including Spain. Indeed, the Spanish Government shares this view.

I also want to note that the stationing of U.S. forces in Spain does not constitute a commitment as defined by the Senate in the National Commitments Resolution. The Agreement we have negotiated does not require "the use of the armed forces of the United States on foreign territory". I also suggest that the conclusion of this Agreement as an Executive Agreement, rather than as a treaty, makes it even clearer that no commitment is involved.

In summary, the Administration is convinced that the conclusion of this Executive Agreement will contribute to broadening and bettering our relations with the people of Spain. Finally, the agreement of the Spanish Government to permit us to continue to maintain our military facilities in Spain also well serves our security interests.

Mr. JOHNSON. As you know, the text of the statement we have now given you was furnished to the committee at the time of the signing of the agreement, but I would like to have it in this public record.

BROAD BASIS FOR COOPERATION

The new agreement with Spain forms a broad basis for fruitful cooperation with the Spanish people in the decade of the 1970's.

It takes into account the many nonmilitary fields in which both countries now have a close mutual interest and establishes a foundation for combined efforts in other such fields in future years.

Such areas include science, cultural exchange, pollution control, urban problems, and very especially, education.

The field of education is expected to assume particular importance with the adoption of an extensive educational reform program by the Government of Spain.

It is expected that a substantial portion of the \$3 million already committed by the United States to nonmilitary uses under the new agreement will be applied to assisting in this educational program.

So far as the military chapter of the new agreement is concerned, the arrangements are basically a continuation of rights we have enjoyed in Spain since 1953, when the first base agreement was concluded with the concurrence of the Senate leaders, including the leaders of the Foreign Relations Committee at that time.

TREATY VERSUS EXECUTIVE AGREEMENT

There have been differences of views as to whether the new agreement should have been concluded as a treaty, subject to approval by the Senate, rather than as an executive agreement, as had been done by Administrations of both parties since 1953. The Administration's position on this issue was set forth in the statement I submitted to this committee on August 6, a copy of which I have now furnished for the record of this hearing.

The Administration believes that the treaty form was not appropriate to the relationship we have undertaken with respect to Spain.

With the exception of this question of form, I have noted little criticism or comment with respect to the substance of the new agreement with Spain.

Certainly I know of none regarding the nonmilitary provisions for educational, scientific, and cultural cooperation and the like. The

only questions I have noted have been whether or not the United States has entered into a commitment to defend Spain, and whether or not there is a secret agreement restricting United States use of the bases in Spain.

I appreciate this opportunity to deal with these two questions.

IS THERE A COMMITMENT TO DEFEND SPAIN?

It has been intimated in articles appearing in the press in the last several weeks that the new agreement of friendship and cooperation signed with Spain on August 6 somehow embodies an obligation or commitment on the part of the United States to come to the defense of Spain. The text of the agreement has been available to this committee since my appearance on July 24, and it has now been 3 weeks since the text was made public. The only specific parts of the agreement which, however, seem to have been cited in connection with the agreement are two phases: One is the preamble stating that under stated conditions both Governments "will make compatible their respective defense policies," and a phrase in article 30 to the effect that "each Government will support the defense system of the other."

COMPATIBILITY OF DEFENSE POLICIES

A reading of chapter VIII of the agreement, which is the chapter regarding defense matters, clearly shows that these phrases have been reported out of context and, in fact, cannot reasonably be interpreted as entailing any defense commitment. The first phrase actually appears as a part of the following sentence:

Consequently, both Governments, within the framework of their constitutional processes, and to the extent feasible and appropriate, will make compatible their respective defense policies in areas of mutual interest, and will grant each other reciprocal defense support as follows:

Thus, the undertaking to make respective defense policies compatible is restricted in three ways:

1. It applies only to areas of mutual interest;
2. It is expressly limited by the constitutional processes of both countries;
3. It is applicable only where "feasible and appropriate." In addition, I must emphasize that the undertaking is restricted to making defense policies in these areas compatible and does not require their integration, joint defense planning, joint exercises or anything of this nature.

MUTUAL SUPPORT OF DEFENSE SYSTEMS

This preambular language is immediately followed by article 30, the source of the second phrase in question. Article 30 in its entirety reads as follows:

Each Government will support the defense system of the other and make such contributions as are deemed necessary and appropriate to achieve the greatest possible effectiveness of those systems to meet possible contingencies, subject to the terms and conditions set forth hereinafter.

It is to be noted particularly that the support in question is limited to that required physically to prepare the military organizations of Spain and the United States to, as the Agreement says, "meet possible

contingencies" with which they might respectively be faced, and is expressly subject to the subsequent explicit terms and conditions.

The terms and conditions, apart from technical regulations regarding supplies, discipline of military personnel, taxes et cetera, simply are to the effect that the United States is granted the use of military facilities in Spain and that in turn the United States will contribute to the modernization of Spanish defense industries and grant Spain military assistance in accordance with the existing Military Defense Assistance Agreement of 1953. Thus, article 31 provides as follows:

The Government of the United States agrees to support Spanish defense efforts, as necessary and appropriate, by contributing to the modernization of Spanish defense industries, as well as granting military assistance to Spain, in accordance with applicable agreements. This support will be conditioned by the priorities and limitations created by the international commitments of the United States and the exigencies of the international situation and will be subject to the appropriation of funds by the Congress, whenever the case so requires, and to U.S. legislation."

Again, it is to be noted that this "support of Spanish defense efforts" is limited in the following ways:

1. It is to be given only "as necessary and appropriate";
2. It consists only of "modernization of Spanish defense industries" and "granting military assistance to Spain";
3. It is expressly subject to appropriation of funds by Congress and, where necessary, legislative authorization.

Finally—and this directly touches the question of commitment—our undertaking to provide military assistance is, in accordance with the words of the agreement, "conditioned by the priorities and limitations created by the international commitments of the United States."

This language alone should make it clear that our Agreement with Spain does not embody any commitment; if the Agreement with Spain were regarded as a commitment, this phrase would have read "created by the other international commitments of the United States" and it does not read that way. This is a repetition of the language of the original 1953 Defense Agreement, which I do not believe has ever been characterized as a defense commitment.

Article 32, of course, basically provides that Spain "will authorize the Government of the United States to use and maintain for military purposes certain facilities in Spanish military defense installations agreed upon by the two Governments."

Other provisions of this Agreement indirectly make it clear that there cannot be any defense commitment on the part of the United States with respect to Spain.

NO OBLIGATION TO KEEP U.S. FORCES IN SPAIN

For example, the United States is not obligated by this Agreement to keep any military forces in Spain whatsoever. While it is contemplated by the Administration that we will retain some forces in Spain throughout the 5-year term of the Agreement, if at any time we should change our minds there is nothing in the Agreement to prevent the removal of all forces and military facilities from Spain forthwith. In this connection article 33, paragraph (c) provides that "The Government of the United States may remove at any time non-permanent constructions installed at its expense, as well as its personnel, property, equipment, and materiel." In case any substantial

removal is contemplated during the term of the Agreement it, of course, would be the subject of consultations with Spain, but we do not require the agreement of Spain in order to carry out any such removal.

OMISSION OF REFERENCE TO 1963 JOINT DECLARATION

There has been some discussion of the fact that in negotiating this Agreement we omitted any reference to the 1963 Joint Declaration, a document which in the past had been characterized by some members of this committee as constituting a commitment. The position of this Administration has been that the Joint Declaration, adopted during the Kennedy administration, did not constitute a defense commitment. That remains our position. Nonetheless, out of deference to the express wishes of this committee, and so that the question of a commitment would not arise in the future, I rigorously opposed the inclusion in the new Agreement of the 1963 Joint Declaration or any language reminiscent of it. We were successful in maintaining this principle and the 1963 Joint Declaration will terminate on the entry into force of this new Agreement on September 26.

Thus, even that language which in the past has given rise to speculation about a commitment now disappears. I emphasize that this was done not because of any concern on the part of the Administration that the declaration constituted a commitment, but rather out of respect for the wishes of this committee.

Despite the fact that this agreement has now been public for almost 3 weeks and has been subject to the scrutiny of this committee for about a month, no one has asserted, and I fail to see how one could assert, that there is any language in the new agreement which in any way echoes defense commitment language in our various multilateral and bilateral mutual security treaties.

"SECRET ANNEX"

There has been public speculation that there might be a "secret annex" to the agreement or some other classified document which either embodies a defense commitment on the part of the United States or in some way specifically restricts our use of the bases in Spain.

Such speculation is totally unfounded. In connection with the signing of the agreement there was one exchange of confidential classified notes, which we took the initiative to make available to this committee on the day of signing, and which is restricted entirely to a recitation of details of numbers of troops permitted to be stationed in Spain, specific locations, and identity of classified defense facilities, and details of the materiel to be made available to Spain. This is basically technical and detailed information which cannot be published without affecting military security. It does not expand on, amplify, or modify any principles contained in the basic Agreement of Friendship and Cooperation.

As you know from the copies you have received, it does not contain any language regarding U.S. defense of Spain or governing the use of the bases.

U.S. USE OF MILITARY FACILITIES IN SPAIN

All of the basic conditions regarding our use of these military facilities in Spain are contained in the published agreement. These appear principally in article 33, paragraph (e), and article 34.

Article 33, paragraph (e) provides as follows:

In normal circumstances any substantial increase in the personnel or military equipment of the United States in Spain, or any substantial increase in the use by the United States of facilities in Spanish military installations regulated by this agreement, will be the subject of prior consultation in the Joint Committee and agreed upon between the two Governments through diplomatic channels.

This means that increases in personnel or military equipment of the United States in Spain or increases of our use of military facilities in Spain beyond levels authorized in the exchange of notes must be agreed upon between the two Governments. This simply reflects an understanding that there is not to be any sudden substantial expansion of our military presence in Spain without the consent of the Spanish Government.

Article 34, which is the most important provision on the use of the bases, provides as follows:

In the case of external threat or attack against the security of the West, the time and manner of the use by the United States of the facilities referred to in this Chapter to meet such threat or attack will be the subject of urgent consultations between the two Governments, and will be resolved by mutual agreement in light of the situation created. Such urgent consultations shall take place in the Joint Committee, but when the imminence of the danger so requires, the two Governments will establish direct contact in order to resolve the matter jointly. Each Government retains, however, the inherent right of self-defense.

This simply means that in Spain, as in every other country where we have military facilities, our use of them must take into account the views of the host Government. Nothing more explicit or definite than this has been agreed upon between the two countries.

These are the principal questions, Mr. Chairman, which I believe have been raised, either by members of this committee or in the press, in the weeks surrounding the signature of the new agreement with Spain.

If the committee has additional questions, Secretary Packard and I will do our best to answer them.

I thank you.

Senator SPARKMAN. Thank you, Mr. Secretary.

Secretary Packard, do you have a statement?

DIFFERENCE BETWEEN 1953 AND 1970 AGREEMENTS

Mr. PACKARD. No, Mr. Chairman, I have nothing specific to add except to say to you that I believe this is a very favorable agreement, a good agreement, and it is going to be to the benefit of both the United States and Spain. I am especially pleased about the non-military aspects, although from the standpoint of the Department of Defense I am interested in the military aspects, and I am very encouraged that we have been able to enter into this agreement which I hope will encourage closer cooperation and friendship with Spanish people.

Senator SPARKMAN. We have had an agreement with Spain since 1953; have we not?

Mr. JOHNSON. Yes.

Senator SPARKMAN. I will ask both of you gentlemen this question: Is there any substantial change in this agreement over the agreement that has existed heretofore?

Mr. JOHNSON. There is not, sir.

As far as the military aspects of the agreement are concerned, it is substantially a continuation of the arrangements that existed since 1953.

Senator SPARKMAN. By the way, a good bit has been said about this being an Executive agreement rather than a treaty.

Am I correct that it was the President himself who decided that it was proper to handle this by Executive agreement?

Mr. JOHNSON. That is correct, sir.

Senator SPARKMAN. And, after all, the President is the one under our Constitution who is charged with the responsibility of carrying on our foreign policy, our relationship with other governments. Is that not correct?

Mr. JOHNSON. That is correct, sir; yes.

PRECEDENT FOR OKINAWA REVERSION AGREEMENT

Senator SPARKMAN. Let me ask you this question, Mr. Secretary. Do you recall your testimony last January 26, I believe it was, on the subject of the reversion of Okinawa to Japan, at which time you said that "In the constitutional sense it"—that is the reversion agreement—"does not require that the form be that of a treaty."?

I think that is your exact quote and that was given in the Japan and Okinawa hearings before the Symington subcommittee on January 26, 1970, pages 1174 and 1175.

You added, I believe, that, and I quote:

"there are various ways that legislative support could be expressed," but that no decision had yet been made on how to handle the reversion issue.

I am leading up to the question of whether the extension by an Executive agreement of the Spanish Base Agreement will now constitute a precedent for not submitting the Okinawa reversion to the Senate.

Mr. JOHNSON. I do not so consider it.

I consider this agreement stands on its own merit and we are not seeking to establish any precedent with regard to Okinawa.

Senator SPARKMAN. Let me ask you this question: If the President alone by Executive agreement can acquire bases, as in Spain, and surrender bases, as in Okinawa—of course, you have not said that that would be done by Executive agreement—then could the President change the status of the Canal Zone, for instance, by Executive agreement?

Mr. JOHNSON. I do not consider myself an expert on the Canal Zone. I simply am not able to answer that question.

As far as Okinawa is concerned, I point out that that is not an agreement in which we are giving up bases in Okinawa. That was an agreement for returning the administration of Okinawa to the Japanese Government and relinquishing our own civil administration. It has in itself no effect on the bases themselves.

Senator SPARKMAN. Yes, I understand that to be true in the present arrangements, but sometime in the future it may be that this other problem will face us. There is a good bit of interest in this

treatment of Okinawa throughout the country now and, of course, we have had the question of modification of the Canal Zone agreement discussed and probably some day we will have to take action on that.

That is the reason I ask you these questions.

Mr. JOHNSON. I am sorry. I am just not an expert and do not have at my fingertips our legal status with respect to the Panama Canal Zone and I just do not feel qualified to answer that question.

Senator SPARKMAN. I think you gave us the answer we want in the first part of the question I asked you. You said you would not regard this Spanish Executive Agreement in any way a precedent for handling the Okinawa question, and I presume that goes on to this other.

Mr. JOHNSON. That is correct, sir.

Senator SPARKMAN. Senator Church.

Senator CHURCH. Thank you, Mr. Chairman.

CONGRESSIONAL CONSULTATION ON 1953 AGREEMENT

Mr. Secretary, in your statement you say:

There have been differences of views as to whether the new agreement should have been concluded as a treaty, subject to the approval by the Senate, rather than as an executive agreement, as had been done by administrations of both parties since 1953. The Administration's position on this issue was set forth in the statement I submitted to this committee on August 6.

Mr. JOHNSON. That is correct.

Senator CHURCH. In that statement, the August 6 statement, I read:

In 1953, after obtaining the concurrence of the Senate leaders, including the leaders of the Foreign Relations Committee, an agreement was signed with Spain known as the 1953 Defense Agreement.

Is it on the basis of that earlier consent given in 1953 that the Administration concluded it was not necessary in 1970 to submit this new extension as a treaty rather than to conclude it as an executive agreement.

AGREEMENT NOT CONSIDERED A COMMITMENT TO SPAIN

Mr. JOHNSON. I would say that was only one factor. Another factor was that, as I have set forth, the Administration did not consider that this constituted a commitment to Spain. If it had constituted a commitment to Spain, there is no question but that it should be submitted for ratification; there is no difference of view on that.

The point of the view on this was the fact that it did not constitute an agreement, and if I may add, Senator, it is our feeling that to submit it for ratification as though it did constitute a commitment would, in fact, carry with it an implication of a commitment that we did not desire it to have.

Senator CHURCH. I would assume that was the weightier consideration inasmuch as the 1953 consent involved only eight Senators, only one of whom is still a Member of the Senate, and four Congressmen, only one of whom is now a Member of the Senate. With the passage of time and changing complexion of the world, you would not place great weight upon that previous consent to an executive agreement as the basis for continuing the arrangement in that form; is that correct?

Mr. JOHNSON. I said it was only one factor.

Senator CHURCH. Yes.

You have also testified, Mr. Secretary, that the new agreement adds nothing to previous agreements insofar as our military relationship with Spain is concerned.

Mr. JOHNSON. That is correct.

WHY NOT A SIMPLE EXTENSION?

Senator CHURCH. The last time the base arrangement was extended was for a period of 2 years and the instrument by which it was extended was a simple one-paragraph letter which read:

In connection with the extension for a two-year period of the Defense Agreement of September 26, 1953, between our two Governments, the United States Government confirms that, subject to authorizing legislation and to the provision of necessary funds by the Congress, the United States Government will continue to provide at an appropriate level during the period of this extension military assistance to contribute to the modernization of the Spanish armed forces and defense industries.

Why was not a simple form of that kind used on this occasion rather than a new and elaborate agreement?

Mr. JOHNSON. Primarily because the Spanish Government itself wanted to have a new agreement that would be broader in scope than just the defense agreement itself.

The 1953 agreement, in any event, could not be extended beyond 1973. By its own terms it would expire in 1973. And both Governments decided that if we wanted to continue this relationship we should negotiate a new agreement which: (1) would have a longer life; and (2) would be broader than just a defense agreement. This is the reason all of the nondefense aspects of this have been embodied, and that as far as the defense agreement itself is concerned this agreement makes it more explicitly clear than the previous agreement did that these are not U.S. bases in Spain, but, rather, the U.S. ability to use Spanish military bases. The Spanish Government attached considerable value to that. Those are among the reasons that a new agreement was negotiated.

Let me put it this way: Even back at that time the Spanish Government wanted to negotiate a new agreement.

We agreed that we did not have the time to do so when this Administration came into office. Thus, we both negotiated that simple 2-year extension of the 1953 agreement, in order to enable us to have the time to negotiate a new agreement that would be more satisfactory to both Governments.

WHAT CONSTITUTES A COMMITMENT?

Senator CHURCH. The heart of the question relates to the matter of commitment. You have testified this morning that there is no commitment contained in the new agreement that would oblige the United States to come to the defense of Spain.

The central question is what do we mean by "commitment." The term itself is very much the point.

Do you believe that an obligation or commitment of that nature can only be undertaken in writing?

Mr. JOHNSON. Yes, I do.

Senator CHURCH. Well, as you define the term, do we have a commitment to defend Laos?

Mr. JOHNSON. Laos was, of course, one of the protocol states under the SEATO Treaty, but Laos, as I recall it, renounced its status as a protocol state under the SEATO Treaty. I would say the fair answer is "No," we do not have a commitment to defend Laos.

Senator CHURCH. But we are presently fighting there, using tactical aircraft and other means in north Laos to defend the Government; are we not?

Mr. JOHNSON. We are using aircraft, of course, to deal with the Ho Chi Minh Trail, to defend our forces in Vietnam from supplies that are coming down there and we have been assisting—that is correct.

Senator CHURCH. We have also been assisting Government forces in the north with aircraft.

Mr. JOHNSON. Yes, with aircraft, no ground forces, as you know.

Senator CHURCH. As you define the term, do we have a commitment to defend Cambodia?

Mr. JOHNSON. No, I do not think we do.

Again, there it is similar to the case of Laos. Cambodia was a protocol state under the SEATO Treaty, but neither we nor the Cambodian Government have sought to invoke the SEATO Treaty with respect to Cambodia.

Senator CHURCH. But we are presently conducting extensive air operations over Cambodia and many press accounts from the field assert that that aerial support is being provided in direct support of Cambodian forces.

We have also increased our military assistance to the Lon Nol government and the Vice President has recently said we are going to do everything we can to help that government.

Do you think that actions of this kind, apart from any formal obligation, have the effect of committing the United States?

Mr. JOHNSON. No, I do not feel so unless we choose to make it so.

PRESENCE OF AMERICAN TROOPS AS A SECURITY GUARANTEE

Senator CHURCH. I press this because in November of 1968, coming back again to Spain, General Wheeler, in a meeting in Madrid with high Spanish military officials, discussing defense arrangements with the United States, said that the presence of American Armed Forces in Spain constitutes a more significant security guarantee to Spain than would a written agreement. How would you interpret that statement?

Mr. JOHNSON. If I recall rightly, Senator, I think that Under Secretary Richardson first, and myself second, testified at some length, was it not, in March of 1969 on that and the other statements and issues that came up at that time.

I can only say that it is an expression of General Wheeler's. It was not an expression of the U.S. Government.

Senator CHURCH. We will, for the next 5 years under the new agreement, maintain substantial forces in Spain; will we not?

Mr. JOHNSON. We have the right to do so under this agreement and I anticipate that we will be maintaining forces there, primarily Air and Navy, as you know.

Senator CHURCH. And we have in the past and will in the future conduct joint operations with the Spanish forces?

Mr. JOHNSON. We have not conducted any joint operations with the Spanish forces. We have in the past at times had some joint exercises.

Senator CHURCH. What is the difference between a joint operation and a joint exercise?

Mr. JOHNSON. In my own mind it is a joint exercise.

EFFECT OF JOINT MILITARY EXERCISES

Senator CHURCH. Let's use "exercise." We have in the past engaged in joint military exercises with the Franco forces and will in the future.

Mr. JOHNSON. Yes, we have.

Senator CHURCH. If we have no commitment to defend Spain, what is the need to participate in joint exercises with the Franco forces?

Mr. JOHNSON. They have been in the past, as I recall it, primarily of a training nature, using Spanish territory for training purposes in which Spanish forces have participated and, as far as the Navy and the Air Force are concerned, both we and the Spanish have both air forces and navy forces in the area, and it seems to me perfectly natural that they should work together or learn to work together so that if an emergency arose in which the Governments were to make a decision that they were operating together, they would have some knowledge and experience with each other.

Senator CHURCH. Do you not think that one effect of joint exercises is to lead the Spanish to assume that there is contemplated a joint obligation in the event of a crisis that would involve the United States in the defense of Spain?

Mr. JOHNSON. In this connection, Senator, let me say that some of the exercises that have taken place in the past have been the cause of questions in both countries. Both we and the Defense Department have now established machinery to monitor more carefully such exercises and to be sure that decisions on carrying out such exercises are reached at senior political levels of the Government.

Senator CHURCH. Do you want to add anything to that, Dave?

Mr. PACKARD. Well, I would just like to emphasize that these are training exercises and there is considerable benefit to the Spanish from training with U.S. forces. I think that is probably the direction in which the benefit flows, and this is true of the naval training exercises.

I certainly do not see that these training exercises in any way involve a commitment to do any particular thing at any particular time. I think it is an advantage to the Spanish to be able to work with our military forces, and perhaps we get some benefit from working with them. But I do not see that these training exercises in any way involve a commitment to do any particular thing at any particular time.

JOINT EXERCISES WITH NONALLIED COUNTRIES

Senator CHURCH. Are we presently conducting joint military exercises with any other foreign power with which we do not have a treaty commitment?

Mr. JOHNSON. My own impression is, it is not unusual to do so, but I cannot—

Senator CHURCH. Can you point to any joint exercises that we conduct with foreign government forces with whom we have no treaty commitment?

Mr. JOHNSON. I am trying to think of a specific case. I just cannot offhand. I just cannot think of a specific case offhand right now, but it does not occur to me that this would be an unusual thing to do.

Senator CHURCH. It would not?

Mr. JOHNSON. It would not. Particularly navies; navies traditionally exercise together in one area or the other.

Senator CHURCH. We are conducting joint military exercises with countries with whom we have not been allied, yet you have not been able to supply a particular case. If there are any, I wish you would supply them for the record. In fairness, I would want to give you that opportunity.

Mr. JOHNSON. Surely; certainly.

(The information referred to follows.)

JOINT MILITARY EXERCISES WITH COUNTRIES WITH WHICH UNITED STATES HAS NO DEFENSE TREATY, DEPARTMENT OF STATE

In addition to military exercises conducted in conjunction with the armed forces of Spain, United States forces have carried out military exercises with other nations with which the United States does not have defense treaties.

The most significant example of such joint exercises are those conducted with Iranian armed forces and scheduled by CENTO as part of the CENTO Combined Military Training Program. In these exercises, the United States has participated with Iran in annual air defense, naval, and search and rescue exercises, annual small arms competitions, and biannual war games.

Joint exercises were also held with Saudi Arabia in 1963 and in conjunction with certain Commonwealth forces, with Malaysia in 1969.

JOINT MILITARY EXERCISES WITH SPAIN

Senator CHURCH. I would like to supply for the record, Mr. Chairman, a summary of the kinds of military exercises that have been jointly undertaken with the Spanish forces in the past. I ask that this be included in the record at this point.

Senator SPARKMAN. Without objection, it will be included in the record.

(The information referred to follows.)

JOINT U.S. MILITARY GROUP, MILITARY ASSISTANCE ADVISORY GROUP, SPAIN, *APO New York, April 23, 1969.*

MEMORANDUM FOR MR. PINCUS

Subject: (U) Joint Exercises with Spain.

1. The following is a resume of training exercises conducted by U.S. and Spanish military forces:

Name: RED EYE.

Dates: Monthly recurring.

Units: U.S. Air Force/Spanish Air Force.

A training exercise to test Spanish Air Force in new tactics and procedures; to train segments of the Spanish Air Defense forces, especially the aircraft control and warning radar sites.

Name: POOPDECK.

Dates: Semi-annually.

Units: U.S. Navy/Spanish Air Force.

Carrier Task Group conducts live simulated air strikes against alerted and well defended land targets while protecting its own forces from threat of aggressive air

attack. Elements of the Spanish Air Defense Forces defend against air attack. Elements of the Spanish Tactical Air Force attack the U.S. Naval Forces. This is a continuing type exercise and has been held twelve times to date.

Name: Trilateral Navy Exercise.

Dates: 16-25 April 1969.

Units: U.S. Navy/Spanish Navy/Portuguese Navy.

ASW exercise involving antisubmarine evasive steering, search and rescue, replenishment at sea, communications. This is a first exercise of this type and will be conducted in the Eastern Atlantic within the area defined by a triangle with the points at Rota, the Azores and Madeira Islands.

Name: PATHFINDER EXPRESS.

Dates: Twice annually since 1967; discontinued since 1968.

Units: U.S. Air Force/U.S. Army/Spanish Air Force/Spanish Army.

Airborne assaults by U.S. and Spanish airborne troops, supported by heavy air drops of equipment, etc. U.S. troops airlifted direct from Germany. Spanish Army provides opposition forces on ground. Scenario depicts limited 48 hour tactical situation designed to exercise particular forces committed.

Name: CARBOLANDEX.

Dates: Annually (if possible for Spanish Navy).

Units: U.S. Navy and Marine Corps/Spanish Navy and Marine Corps.

Amphibious training exercise conducted off the coast of Almeria. These exercises are concerned with the accomplishment of U.S. Navy/Marine Corps amphibious tactics, including communications, replenishment at sea, simulated gun fire support, amphibious assault, and maneuver ashore.

Name: EL SARRIO.

Dates: Three times; semiannually; discontinued since 1968.

Units: U.S. Army/U.S. Air Force/Spanish Air Force/Spanish Army.

1. Special Forces exercises to provide realistic joint/combined staff and field training emphasizing infiltration by air and sea, attack of assigned targets, communications, intelligence reporting, escape and evasion in the battle zone, and exfiltration.

2. Exercises in Spain have several advantages in that a wide variety of terrain is available; there are fewer complications in scheduling and conducting the exercises; and probably fewer claims resulting from damages caused by U.S. Forces during the exercises. These factors coupled with ideal weather and the cooperative spirit of the Spanish, make Spain one of the most desired areas in which to hold these exercises.

3. There have been no significant problems associated with the above exercises.

J. O. COBB,

Rear Admiral, US Navy, Chief.

Senator CHURCH. Mr. Chairman, I have a number of other questions, but, in fairness to the other members of the committee, perhaps I should defer to them and then ask the chairman to come back to me later so that I can complete my questions.

Senator SPARKMAN. We will be very glad to do that. Of course, it would be possible to submit questions for them to answer for the record.

Do I understand correctly that we have a rollell at 12 o'clock?

Senator MCGEE. That is what they said.

Senator SPARKMAN. I remind the members of the committee of that because there are only 43 minutes left.

All right.

JOINT MILITARY EXERCISES BETWEEN NONALLIED COUNTRIES

Senator CHURCH. Mr. Chairman, since I am stepping aside for the moment, I have one final question dealing with this practice of joint military exercises.

I do not understand your position when you say, Mr. Secretary, that you would not think it unusual at all for joint military exercises

to take place between nonallied countries. If the Soviets, for example, were to hold joint exercises with a country, would you not regard that as an indication that there was a special relationship between them?

Would you regard that as a natural action of nonallied countries?

Mr. JOHNSON. I would certainly agree they were friendly toward each other, but what I was pointing out, this particularly arose in connection with the Navy exercises. I can recall—I would not like to mention the name of a country—but I can recall countries in which I have been stationed which carried out joint Navy exercises with countries with whom they did not have an alliance.

It has been quite normal for navies to exercise with each other when they make cruises around. I think this has been historically so.

Senator CHURCH. As you well know, these joint exercises with Spain have not been limited to naval operations.

Mr. JOHNSON. That is entirely correct. We are carrying out training activities in Spain; yes. That is correct.

Senator SPARKMAN. Senator Case?

Senator CASE. Thank you, Mr. Chairman. Mr. Secretary, do you want to add something?

Mr. JOHNSON. If I can interrupt, can I add something for the record?

Senator SPARKMAN. Yes.

Mr. JOHNSON. My staff is just pointing out to me that the French and the British have regularly carried out joint exercises.

Senator CHURCH. Are not the French and British allied?

Mr. JOHNSON. No, the French and British with the Spanish.

Senator CHURCH. With the Spanish?

Mr. JOHNSON. Yes. I am sorry, Senator.

CONCERN OVER COMMITMENTS

Senator CASE. I am sure you understand that the reason for this committee's and the Senate's concern about the effects of this agreement is the not too distant history of obligations made on the part of the United States, even assistance granted, in the absence of written agreements. Oral statements by the Executive, sometimes made privately, have been cited as giving rise to commitments which have bound this country, and placed an obligation on Congress—regardless of what it thought—to do everything the Executive considered necessary to carry them out.

So there is a very real basis for the concern that you see evidenced here.

I am sure you are not surprised that the fact that you have originated an executive agreement instead of a treaty does nothing to allay that concern, if not suspicion. That is why I think we are quite right not to take this matter lightly and to subject what you have said and the terms of the document to as careful a scrutiny as we can.

WHAT IS MEANT BY "COMMITMENT"?

When you used the word "commitment," the Senator from Idaho touched on the point, "what do you mean?". I assume what you mean is that there is no commitment as such.

In one sense, I suppose it is just a general obligation on the part of the United States to do something in the future, which says nothing

about what shall put the United States in motion to carry out that obligation. That is a possible meaning; it is not?

Another meaning is that an obligation is created on the part of the United States and, at the same time, a power is created in the Executive to act to fulfill that obligation when the time comes or conditions arise without reference to Congress. That is another meaning or bit of the content of the word "commitment;" is it not?

Mr. JOHNSON. Yes.

Senator CASE. And you were talking about both these meanings; were you not?

Mr. JOHNSON. Yes.

Senator CASE. And when you say such things as "subject to the constitutional processes," what you are talking about is that the Executive agreed for himself and for the country, so far as he can, but that he also means, "This will be carried out to the extent that Congress permits at the time or authorizes at the time." That is what you are talking about; is it not?

Mr. JOHNSON. Yes.

Senator CASE. When you say then that no commitments are made, you mean that the Executive does not now claim and cannot use any document as a basis for a later claim that it has the right to move the United States into action without the approval of Congress? Is that what you mean?

Mr. JOHNSON. I would say it does not change anything in that regard.

Senator CASE. You say this does not change anything. I do not mean to quibble about words, but is that what you mean?

Mr. JOHNSON. That is right.

Senator CASE. It does not create any additional authority on the part of the Executive to move the United States into action beyond what might have obtained otherwise?

Mr. JOHNSON. Otherwise, that would be a fair statement.

Senator CASE. I am satisfied. It cannot be used as a claim that an authority is being created which can later be relied upon as a basis for action by the Executive.

Mr. JOHNSON. Yes, that is a fair statement.

Senator CASE. And you are very clear about that?

Mr. JOHNSON. Yes, that is very correct.

Senator CASE. I say this because the word "commitment" is very often loosely used, sometimes to express an obligation so far as the future goes, sometimes to express a condition which already exists, that is, that troops are in place, therefore you are committed. We are talking about obligations for action in the future.

COMMITMENTS SUBJECT TO CONSTITUTIONAL PROCESSES

If this is so, why is a different expression used on page 2 of the agreement in article 3 in which it is said that the obligation for expanding of exchanges in the educational and cultural fields is subject to the constitutional processes of the two countries? And chapter VIII on page 7, at the top, in which military commitments are said to be within the framework of their constitutional processes. Is there a reason for that difference in language and, if so, what is it?

Mr. JOHNSON. It was not deliberate.

Senator CASE. It was not deliberate?

Mr. JOHNSON. No, no.

Senator CASE. Mr. Secretary Packard, do you agree with that interpretation?

Mr. JOHNSON. I really had not noted the difference.

Mr. PACKARD. I agree with that. I do not see any difference of intention.

Senator CASE. No difference. In both, these conditions are inchoate and later dependent on later action by Congress.

Mr. PACKARD. Senator Case, I think there is only one commitment that is involved in this for future action and that would be for the United States to defend their military forces if they are attacked. I think that is the absolute limit of any commitment.

Senator CASE. Well, that is not a commitment to the other side.

Mr. PACKARD. That is not a commitment to the other side.

Senator CASE. And in no sense is it anything but the right of self-defense.

Mr. PACKARD. I would see nothing in this agreement that would make any commitment for us to do anything in respect to the defense of Spain.

Senator CASE. Or by itself constitute any additional power in the Executive to act without reference to Congress?

Mr. PACKARD. I would not see anything in that.

Senator CASE. That is an absolute flat statement on your part and yours, Mr. Secretary, also.

Mr. JOHNSON. It is, yes.

OBLIGATION TO DEFEND U.S. FORCES

Senator CHURCH. Senator, would you yield to me so that I might clarify that point. It is a very important point.

Under the agreement, it is clear that these bases at which American forces will be stationed are actually Spanish bases; is that not true?

Mr. JOHNSON. That is correct.

Senator CHURCH. How could an attack take place on these Spanish bases that would not constitute an attack on us and thus involve us in the necessity of responding? What kind of an attack could take place which would not also be an attack on us since we occupy the bases and since we have the right of defense? How could an attack upon these Spanish bases coming either internally or externally occur that would not constitute simultaneously an attack on us?

Mr. JOHNSON. Well, there are many Spanish bases and military facilities. We are present on only a few of them.

Senator CHURCH. Yes, but——

Mr. JOHNSON. If someone who chose to attack a facility on which we are present, they would obviously also be attacking us as well.

PRESIDENT'S POWER TO SEND FORCES ABROAD

Senator CASE. I think the Senator from Idaho has raised a very important aspect of this whole matter, which is the power of the Executive to move American military forces onto foreign soil without the approval of Congress. I wonder if either of the Secretaries would have any comment on this, and perhaps discuss it in the light of other similar situations in which Executive agreements have been used,

instead of treaties which require the consent of Congress, to station American military forces on foreign soil.

Mr. JOHNSON. Well, I would prefer to defer comment on that. That is a question that is being debated. There has been a lot of discussion, and I would prefer not to make just an off-the-cuff answer to that, Senator.

Senator CASE. I wonder if it would be appropriate, Mr. Chairman to ask the State Department and the Defense Department to make a comment on that question. I would like to have it considered rather carefully and as a possible basis for further inquiries by this committee.

This is a matter that even in our time has come up not infrequently, including a similar question of American troops going to Europe for the first time or being stationed there.

Senator SPARKMAN. I think it would be appropriate.

Senator CASE. I would ask for a comment on the question, and I would be most grateful.

I conclude my questioning.

(The information referred to follows.)

PRESIDENTIAL POWERS FOR DIRECTION OF U.S. ARMED FORCES ABROAD, DEPARTMENTS OF STATE AND DEFENSE

Under the Constitution, the President's powers for the direction of our armed forces abroad are derived from those parts of Article II which make him the Commander-in-Chief of the Army and Navy of the United States and which give him special responsibilities as Chief Executive in the field of foreign affairs. The history of the United States is replete with examples of Presidential decisions to station elements of the armed forces abroad and decisions to order the armed forces to take action in self-defense and in defense of American interests. Many of these examples are well-known; they include combating the Barbary Pirates, suppression of the Boxer Rebellion, and the Korean War.

With respect to the stationing of elements of the armed forces abroad in time of peace, we would not wish to suggest that the President's powers under Article II are affected significantly by the presence or absence of a relevant mutual defense treaty. Each of these treaties states that its implementation shall be in accordance with our constitutional processes, which means that the respective powers of the President and the Congress under the Constitution remain undisturbed by the treaty. In recent years, most United States military facilities abroad have been in areas covered by mutual defense treaties, but there have been numerous exceptions, of which Spain currently involves the most sizable U.S. military presence. In any event, the issue is an academic one insofar as it relates to the stationing of U.S. forces in foreign countries as distinguished from short-term deployments and exercises. As a practical matter, the President is unable to station elements of the armed forces in foreign countries without first obtaining authorizations and funds from the Congress to construct and maintain those bases.

Senator SPARKMAN. Thank you. Senator Symington?

Senator SYMINGTON. Thank you, Mr. Chairman.

It is a pleasure to see you. As you know, I have been interested for some time in the cost of these adventures abroad. May I also say to Secretary Packard that I respectfully commend him for a very fine talk the other day incident to defense procurement. If they carry out your instructions, I think you will save this Government billions of dollars.

Mr. PACKARD. Senator, now I have to do something about it, having made that statement.

Senator SYMINGTON. Knowing you, I am confident you will.

RIGHT TO KNOW COST OF ARRANGEMENTS

The problem has been well developed by the distinguished Senator from Idaho and the distinguished Senator from New Jersey. As I see it, and what especially worries me, is the people's right to know about how their taxes are being expended.

It was only a few years ago that I read in one of the weekly magazines about the so-called McNamara Line south of the DMZ; I then went to the chairman of the Armed Services Committee and asked if he had heard anything about it. He said, "No." So we had a briefing, he and I, alone, and found there was a tidy sum of money involved, some \$1.6 billion with a \$300 million annual cost; and we had been told nothing whatever about it.

In fact, later before the Appropriations Committee one of the military officers said it was too highly classified a matter to be discussed even in executive session before the Appropriations Committee. As a result of this type and character of incredible lack of knowledge on the part of the Congress, we started looking at just what our commitments are around the world.

And thanks to Messrs. Pincus and Paul, we got into this Spanish base situation. When they first brought a copy of the arrangements to me, and asked what I thought of it, I said I thought that it was a good deal, possibly, for the United States, with one small exception. They asked what was that, and I said I thought the Spanish should be paying us \$100 million instead of us paying them.

RELATIONSHIP OF AGREEMENT TO NATO

I have before me some articles and a statement made by the Spanish Foreign Minister with respect to what this arrangement means to them, and I will not take too much time because we are limited, based on the agreement to vote at noon. The Spanish Foreign Minister, Lopez Bravo, on August 8, 1970, in reply to the question—"To what point does this treaty directly tie us to NATO, and is it of interest to us or not to be tied to NATO"—made the following reply which I ask be inserted at this point in the record.

Senator SPARKMAN. Without objection, it is so ordered.
(The information referred to follows:)

(Unclassified Translation)

TEXT OF REMARKS MADE BY SPANISH FOREIGN MINISTER GREGORIO LOPEZ BRAVO AT THE AIRPORT OF BARAJAS UPON HIS RETURN FROM THE SIGNING OF THE AGREEMENT OF COOPERATION AND FRIENDSHIP BETWEEN THE GOVERNMENT OF SPAIN AND THE GOVERNMENT OF THE UNITED STATES, AUGUST 8, 1970

Really, since having read last night on the airplane the news contained in the Madrid press and thinking that it will have been similar to that which had been presented by television and radio and in the provincial press and in view of its depth and of its precision, it seems to me that it would unnecessarily distract your attention saying great things (*grandes cosas*) about the agreement of friendship and cooperation that I signed yesterday with the United States in Washington.

I would simply like to say that for me its fundamental value is political, and in a certain way that is how President Nixon also understood it in the audience that he gave me immediately after the signature of the agreement.

Of course, he put the fundamental emphasis on personal contacts. He told me twice to try through every means and in whatever circumstance, in whatever

place to see Secretary of State Rogers very frequently, something that we have done because of work over the last five months in which we have met four times, three in Washington and one in Madrid as you all know. Having said this, I would almost prefer to offer myself to you to answer whatever questions that may occur to you, in spite of the fact that I have the impression that the information media has treated this theme exhaustively and I do not wish to wear you out unnecessarily with explanations that would, in my opinion, be repetitive.

Question—Mr. Minister, some foreign (press) agencies have given an official version of the content of what the U.S. is going to give to Spain as a *quid pro quo*. Has something been agreed or do we have to continue to wait to know the content of the agreement?

Answer—I don't know how the news in Spain is in this regard, but obviously the content of the agreement is not a secret. In addition, the Foreign press agencies have nothing special that I know of although the U.S. press yesterday treated the subject with great coverage. For example, the *New York Times* dedicated an entire page to chapter 8.

Question—I referred to the specific price that the United States is thinking of offering us.

Answer—There is no price. Don't forget that what we have just signed is an agreement of friendship and cooperation. You don't put a price on friendship and cooperation cannot be limited or cannot be measured in dollars. On the other hand, it would deal with enormously variable figures. For example, Senator Fulbright in the amendment which he was thinking of presenting yesterday to the Senate, (I don't know if it was finally presented because I left Washington at 1:00 in the afternoon) set the value of the reinstatement of the bases that now will be Hispanicized at a value of exactly \$1,088,000,000. Evidently, if in place of speaking of the value of reinstatement, one speaks of residual values, then very different figures can come out of this. If one speaks of cost value we all know that in figures from the year 1953 the cost was exactly 328.8 million dollars. However, in my opinion, the friendship and cooperation for us and the U.S. has an enormous potential value, which I insist is above all political, and which cannot be measured in dollars.

Question—It has been said Mr. Minister that in the agreements for the fiscal year 1971 the U.S. is going to give us three million dollars for non-military projects and that in successive years it is going to be the same quantity.

Answer—No, no, no. I would say this is a kindness of the Nixon administration because for a budget of the fiscal year in progress you cannot have any budgetary provisions for an agreement which did not exist. They have guaranteed a minimum of three million dollars for the education project because they had already known the "White Book" of which the administration of the U.S. including the Congress had the best impression. What they have done has been to guarantee a minimum of three million dollars so that the cooperation in the chapter corresponding to education could begin immediately. They have taken into account that the aspects related to the preparation of teachers that are vital for the success of the new education law require intensive training of teachers and the object of having given us this amount within the current budget is precisely so that we can begin to apply it immediately.

Question—To what point does this treaty directly tie us to NATO and is it of interest to us or not to be tied to NATO?

Answer—That question is two questions. The first question: evidently I would say that with the system of security for the air space with the new automated alert and control network that is contemplated in these agreements we will be tied to the aerial security system of the continent, of the member countries of NATO. One understands that there is another link of a personal type by means of the presence in the joint committee (while the transcript omits something at this point the reference is to Gen. Goodpaster) representing the armed forces of the United States in Europe located in Brussels. As far as our interest in tying ourselves to NATO, that is a theme that one must evaluate in three aspects, political, military and economic, although one might alter the order of these factors. This is a theme which naturally merits the permanent attention of the Spanish Government because in any case I believe that it requires a period of transition in which the Spanish military budget must be appreciably strengthened. I said when explaining the scope of these agreements in the *Cortes* (and it seems to me opportune to repeat it now) that a minimal calculation of what Spain would have to spend on defense if it belonged to NATO would require at least double the actual defense budget which, as you know, is in the order of 44 billion pesetas.

Senator SYMINGTON. I would like to read the last sentence in that answer:

I said when explaining the scope of these agreements in the Cortes, and it seemed to me opportunity to repeat it now, that a minimal calculation of what Spain would have to spend on defense if it belonged to NATO would require at least double the actual defense budget which, as you know, is in the order of 44 billion pesetas.

I understand that is about \$680 million.

For some time many of us have felt we could pull some U.S. troops out of Germany. It is rather sad to me, considering the current status of our present economy—high interest rates, increasing inflation, and growing unemployment—that we have to keep a half million Americans, roughly, in Europe in order to defend them, when they themselves do not put up anything like we do for national defense.

With that background, I would ask these short questions:

Does the United States hope to have Spain taken into NATO?

Mr. JOHNSON. The answer is "Yes." We would very much hope that Spain could eventually join NATO.

Senator SYMINGTON. Do you think that your influence now is greater on the countries that are opposing it than it was in the past?

Mr. JOHNSON. Well, it is a relative term.

Senator SYMINGTON. That is right, but we are putting the money up in the main. Therefore, why can't we use the money to carry it out?

Mr. JOHNSON. I would say yes. I think we have influence, more influence perhaps than we had in the past. At the same time, Senator, this is something, of course, with which Spain has to work its way. There is nothing we can accomplish unilaterally on our part with respect to Spain and, as you know, and as the Spanish Foreign Minister, I think, indicated Spain itself had hoped for an association with NATO.

Senator SYMINGTON. Do you know why they do not want Spain in? They do not think the form of government we support is the right form of government. Is that correct?

Mr. JOHNSON. That is right.

Senator SYMINGTON. Thank you.

Does the establishment of this new committee with General Goodpaster as the U.S. military representative represent a link between Spain and NATO?

Mr. JOHNSON. No, it does not as such.

General Goodpaster is the military adviser to the Ambassador, and is a member of the committee in his capacity as CINCEUR [commander], U.S. Forces in Europe, rather than in his NATO capacity.

Senator SYMINGTON. Upon his return to Spain on August 8, the Spanish Foreign Minister described as one link to NATO "the presence in the joint committee of General Goodpaster, representing the Armed Forces of the United States in Europe located in Brussels."

Was the Foreign Minister correct in describing General Goodpaster's presence as a link to NATO?

Mr. JOHNSON. Not in any formal sense, no, sir.

Senator SYMINGTON. Thank you.

WOULD MEMBERSHIP IN NATO INCREASE SPAIN'S DEFENSE BUDGET?

The Foreign Minister went on to say that were Spain to actually belong to NATO, its defense budget would have to "at least double" and, thereby, implied that with the present link full agreement was not necessary.

Is that correct, that Spain's defense budget would double if she were taken into NATO?

Mr. JOHNSON. I have no notion whatsoever on what basis the Minister made that statement.

Senator SYMINGTON. Then if you do not know, then he probably does; does he not?

Mr. JOHNSON. I just saw the statement. We had no discussion of this with the Spanish Minister.

Senator SYMINGTON. But do you think he would know whether going into NATO would double the cost?

Mr. JOHNSON. I just have no basis for judgment.

Senator SYMINGTON. Then do you think he might not be telling the truth to his own people?

Mr. JOHNSON. I just do not have a basis for judging.

Senator SYMINGTON. You do not have enough confidence in him to back up the statement that he made?

Mr. JOHNSON. I just do not know on what basis he made the statement.

Senator SYMINGTON. I see.

Why do you think he made it then?

Mr. JOHNSON. I simply just do not know; that is all. I saw the statement.

Senator SYMINGTON. What did you think about it?

Mr. JOHNSON. I would have to ask him, and I did not ask him. He was not here.

Senator SYMINGTON. Is it not true also that were Spain in NATO the United States would not have to pay a quid pro quo for the use of the bases?

Mr. JOHNSON. I am not sure of that. I would say that one of the elements of the fact that we do pay some *quid* to Spain is the fact that Spain is not in NATO. We contribute, of course, to bases in NATO countries; we contribute to the infrastructure costs of those.

I am sorry; I just do not feel I could give a categorical answer to that question.

TIE TO NATO

Senator SYMINGTON. Thank you, Mr. Secretary.

On August 6 of this year you were asked a question in a briefing, "Your article 35 pretty well ties this into NATO insofar as taking into account the regional defense arrangements." And you answered, "That is right. Neither one of us can be blind to that."

Are you changing your position today or do you think that is in accordance with what you said?

Mr. JOHNSON. No, I am not—there is in the agreement article 35, which was just signed.

Senator SYMINGTON. Yes, I know there is.

Mr. JOHNSON. Yes, in which—well, I will read it:

"Both Governments consider it necessary and appropriate that the cooperation for defense regulated by this chapter form a part of the

security arrangements with the Atlantic and Mediterranean areas, and to that end they will endeavor to work out by common accord the liaison deemed advisable with the security arrangements for those areas."

In that respect let me say what is contemplated is liaison arrangements between the NATO commands in the Mediterranean area and the Atlantic area, technical liaison arrangements. This was not referring to the role of General Goodpaster on the joint committee.

Senator SYMINGTON. I see.

Mr. JOHNSON. It is referring to technical liaison arrangements.

Senator SYMINGTON. I would just like to close my questions with a comment, and that is it seems to me that sometime, somewhere, we are going to have to make these countries think it is just as important for us to defend them as we do.

Thank you, Mr. Secretary.

Senator SPARKMAN. All right, Senator Cooper.

REFERENCE TO CONSTITUTIONAL PROCESSES IN DEFENSE AGREEMENTS

Senator COOPER. I am sure this ground has been gone over before I came in, but I think you are aware that we have treaties with 42 countries, security treaties, which state that in the case of an attack upon one of the parties the other will take such action as, in substance, the country thinks proper, and through its constitutional processes. That is correct generally of our obligations in all our security treaties.

Now that language substantially was used in the agreement with Spain, which is now the latest agreement with Spain; isn't that correct?

Mr. JOHNSON. I am sorry—your statement was, Senator, that that statement is used—

Senator COOPER. In the last agreement.

Mr. JOHNSON. It does not use any of that language; that is correct.

Senator COOPER. In case of an attack each country would take action according to its constitutional processes.

Mr. JOHNSON. Yes.

Senator COOPER. And several other executive agreements with other countries have that statement now, such as Pakistan, Iran, Turkey, Liberia.

Now, also in chapter 8 of the agreement before us this language appears, I am checking on it, article—the preamble of chapter VIII which you stated in your testimony, "Consequently, both Governments, within the framework of their constitutional processes, and to the extent feasible and appropriate, will make compatible their respective defense policies in areas," and later in other articles, article 34 provides "In the case of external threat or attack against the security of the west." Now the West is a rather vague term. How do you define the West?

Mr. JOHNSON. This language carried over from the 1953 agreement and it has not been defined, we have not sought to define it, beyond this.

Very clearly, though, what we each have in mind is a situation of general war in which there is a general attack from the East or from the Communist States of the East, against Western Europe.

Senator COOPER. The language of that article, which is similar to that used in other security agreements, citing the case of an external

attack against the West says there will be consultation between the two Governments. Why in that case, why shouldn't "constitutional processes" be used? That is the point that this committee and the Senate have made for over a year; that in case of a threat from an attack in a situation in which the country would likely be drawn into war that the President should come to the Congress for authority to engage in war. It does not affect his power to protect the country or protect the troops.

What I am saying is that in chapter VIII which deals with defense that there are three or four articles in there which state the necessity for increasing our personnel, you say there shall be joint consultation between the two countries.

Also in article 33, paragraph (e), I wish to quote, "In normal circumstances any substantial increase in the personnel or military equipment of the United States." Would you consider by use of the word "normal" that they are contemplating an abnormal situation which would suggest, which would mean war or threat of war?

Mr. JOHNSON. The use of the word "normal" there, Senator, is in contradistinction to the situation set forth in article 34. Article 34 contemplates an emergency, abnormal crisis situation. Section 34(e) is talking about just normal circumstances; that is today if we wanted to greatly increase our facilities or our personnel in Spain for any reason article 34(e) requires us to consult with the Spanish Government about it.

That is all that says.

Mr. PACKARD. Senator, it seems to me that article 34 ought to be read for what it is, a limitation of our ability even in the case of an external threat—that we do not have the right, as a result of this agreement, to take any action without consulting with the Spanish Government, and it seems to me this is really a limitation rather than a definition of any obligation.

Mr. JOHNSON. Article 34, Senator, does not purport to say how we will handle our own internal decisions on this. Article 34 only purports to say that in the case of a crisis we will have to take into consideration the views of the Spanish Government insofar as the use of our bases is concerned, and the Spanish Government will have to take into consideration our views as well; that is all it purports to say.

U. S. PARTICIPATION IN EVENT OF AGGRESSION

Senator COOPER. I know others want to ask questions, but I want to ask this question: I think we must assume Spain considered this agreement of value to its own security efforts to allow our bases and personnel on its territory. That is correct; is it not?

Mr. JOHNSON. Obviously so.

Senator COOPER. It must be obviously correct that we consider the maintenance of these bases and our personnel in Spain important to the security of the United States.

Mr. JOHNSON. That is correct.

Senator COOPER. So it seems to me whatever you say that the executive agreement contemplates or—not only contemplates—but it anticipates that in event of aggression the question of our participation would arise.

U. S. PARTICIPATION IN EVENT OF THREAT OF WAR—ROLE OF CONGRESS

Now I would like to ask you this: If such situations did arise other than that which required the immediate protection of our bases and our troops, is it the intention of this Administration, the one we now have, to come to the Congress for consent before it engaged in general war for Spain?

Mr. JOHNSON. In a general war for Spain, you say?

Senator COOPER. Yes. By placing, putting our bases there and putting our men there we put ourselves in a position like we have in Vietnam and other places throughout the world where the threat of war is always present, not always but could be. Now in such a case was it discussed within the Administration that if necessary it would come to Congress, it would have to exercise the constitutional process before entering into war?

I am not talking about a situation of immediate defense. I am talking about a situation of engaging in war.

Mr. JOHNSON. Well, I would——

Senator COOPER. This has arisen in Vietnam, Laos, Cambodia and that is my question. Was it ever discussed, or if you are speaking on your own authority, would you say the executive branch would come to the Congress?

Mr. JOHNSON. As far as my negotiations with the Spanish are concerned, we did not try to go into all the possible permutations and hypothetical situations that could arise as to the use of the bases.

As far as our own decisions with regard to those situations are concerned, I would certainly assume that the executive would resort to Congress in some way. But it is very difficult for me to anticipate every situation and the decision the executive might make in every situation.

This, of course, has been the subject of much discussion at the present time, and I do not think I am able to add anything to that discussion.

Mr. PACKARD. Senator, I might make a comment on that point. I do not know that I am in position to commit this Administration as to what the policy would be under a circumstance such as you envision. But I certainly would see nothing in this agreement that would make it unnecessary to take whatever steps were appropriate in terms of the kinds of contingencies you talk about.

In other words, I do not think this agreement would have any effect in enabling the executive branch to do something other in a contingency than that which would be done without this agreement.

Mr. JOHNSON. I think it is a very good point. It was a point we were discussing with Senator Case. I am not sure whether you were here at that time, Senator, but this neither adds to nor subtracts from in any way, in my view, the relationship between the Congress and the Executive with respect to the war-making powers.

We are not saying that because of this agreement the Executive would feel entitled to do something in the field of hostilities that it would otherwise not feel entitled to do. This agreement does not change that situation at all; that is the point I am saying.

Mr. PACKARD. And very specifically this agreement in my view does not imply any commitment to do anything under any circumstances. It would have to be addressed in terms of the conditions at the time and a determination to be made in that context.

Senator SPARKMAN. Senator Cooper, it may be before you came in I asked the Secretary specifically about this being used as a precedent, and he said that this would not be used as a precedent in the future. Each one has to stand on its own basis; is that correct?

Mr. JOHNSON. That is correct.

Senator SPARKMAN. Senator Pell.

Senator PELL. Thank you, Mr. Chairman.

SKILLFUL DRAFTSMANSHIP

I have read the agreement quite carefully and it seems to me it is really a masterpiece of draftsmanship because, to my mind, it would permit the dominant branch of Government, be it executive or legislative, to interpret it anyway it wishes.

As you say, it is sufficiently bound up so it is not pushing you to do anything.

On the other hand, if the dominant branch—and Lord knows which it will be in 10 years—wishes to interpret it differently, I think they can.

I am reminded here a little bit of SEATO, which, I agree, is a treaty. It was signed by the United Kingdom and by us, and history will show the United Kingdom is just as honorable a nation as the United States, but its interpretation of its obligations is very different from ours. I think, at least to me, this agreement is a very skillful job of draftsmanship.

OBLIGATIONS IN EVENT OF CIVIL WAR

Now, a specific question. I am one of the generation that recalls the Spanish Civil War. I was a Portuguese Red Cross delegate and was arrested by the Spanish for helping the British prisoners of war, and another time for not giving the Falange salute. I am concerned about the possibility of some internal dispute there, not revolution, maybe, but insurrection, civil war.

Does the United States have any obligation under this Executive agreement to help Spain in the case of domestic insurrection or rebellion?

Mr. JOHNSON. Absolutely none whatsoever.

Senator PELL. Absolutely none. Even if it is thought that the rebellion is inspired, not by Hanoi, but by Moscow.

Mr. JOHNSON. There is absolutely no obligation.

Senator PELL. Thank you.

Senator SPARKMAN. Senator McGEE.

Senator McGEE. Thank you, Mr. Chairman.

DEFENSE OF WESTERN EUROPE AIDED BY AGREEMENT

Would I be correct in assuming that it is the present policy of the United States to aid and abet the defense of Western Europe against the larger attack, let's say, from the East? Is that a basic American policy?

Mr. JOHNSON. It certainly is.

Senator McGEE. And regarded in the American national interest?

Mr. JOHNSON. It certainly is.

Senator McGEE. Does the presence of American troops in Spain, on Spanish bases, in any way enhance the capability of achieving that broader national interest goal?

Mr. JOHNSON. It very materially enhances it and especially in the Mediterranean area.

Senator McGEE. Does it have any relevance to the bargaining capabilities of the United States in the current tense issues in the Mediterranean?

Mr. JOHNSON. It certainly does, sir. It enables us to maintain a presence in the Mediterranean that we otherwise would not be able to do.

Senator McGEE. You are satisfied there is no commitment that would involve us either internally or externally in a strictly Spanish national issue?

Mr. JOHNSON. That is entirely correct.

Senator McGEE. It would be conceivable such a national issue, let's say, if France were to attack Spain or Italy were to attack Spain or the Moroccans or Andorra, if that were feasible [laughter] this is not in any way implicit in any of the language.

Mr. JOHNSON. That is absolutely correct.

Senator McGEE. The language pertains only to the balance of Europe, in effect.

Mr. JOHNSON. That is correct, sir.

INQUIRY NOT IN NATIONAL INTEREST

Senator McGEE. Under those conditions, and those have been made clear now—this is the fourth time I have heard them spelled out and made clear before this committee—I have to say, Mr. Chairman, that I have a very strong feeling that we are straining the daylight out of this issue on this committee. This was said months ago, a year ago; it is repeated every time we need another televised show and I do not understand why we persist in trying to put on the spot our official diplomatic spokesmen in ways, as has been done here this morning, that can indeed become embarrassing between governments.

This is what makes me wonder, Mr. Chairman, whether either the Congress or this committee or our whole mechanism does not have to be updated in some meaningful way so that we can be a bit more sophisticated, a bit less flagrant, in our casual scrutiny of our interests.

It does not enhance the national interests, in my judgment.

All of this information we have had in closed session and I really begin to question whether a free society can live up to its responsibility as a world leader. Maybe we cannot. Maybe we ought to let somebody else do it. There are those who advocate that.

I do not think we have a rational choice, but we cannot do it this way, in my opinion.

I am trying to make a short comment having waited a long time, Mr. Chairman, and going through a great many question, but I fail to understand this perpetual fishing expedition in Spanish waters, sponsored by the inquiries that have gone on in the last year. I think the questions were legitimate one time around, once you got the answer. I think that is fine. But to acquire this as a rhythmic approach

is, I think, open to question in the national interests, and if we are going to vote at 12 o'clock, I had better shut up, Mr. Chairman.

Thank you, very much, for finally getting around to me.

JUSTIFICATION FOR HEARING

Senator SPARKMAN. Before you go, let me say just this. Of course, I agree in great part with what you say. But I think this hearing is a perfectly legitimate hearing this morning. Certainly there were members of this committee and Members of the Senate who were disturbed by the idea of submitting this as an executive agreement rather than in the more formal form of a treaty. Furthermore, even though we have gone over these things several times in our committee, this, I believe, is the first public hearing that we have had. I believe that some of those who were disturbed about the executive agreement arrangements felt that if the matter could be laid bare before the public that that, in large part, would answer the objection and, therefore, even though I had nothing to do with setting up this hearing, I do defend it.

I think it has been useful and I think it has been helpful.

By the way, may I say just this? Senator Church has gone ahead in order that he may vote quickly and return, and Senator Javits is coming in, too; so I hope you people do not have earlier luncheon arrangements.

Senator McGEE. Mr. Chairman, may I just add to your comment there that I, too, think this session this morning was necessary, but I think it was necessary because we keep fanning this issue all the time. That is the point.

Senator SPARKMAN. I think it has been helpful, because I think they have given us a very clear statement.

Senator McGEE. Indeed they have, but I felt they had already done this several times.

Senator SPARKMAN. To us, not to the public.

Senator McGEE. But the public would not have been as sustained in its concern here if we had not regularly peppered them with these doubts, even after we have one of these sessions. You can be sure this does not end it here today. We will be back in another 6 weeks or 2 months and we will have the Secretary, both Secretaries, up here again and we will ask them what about those commitments in Spain. I think I am not too far out in making that prediction on the basis of where we have come from in the last year. So I have made that prediction here this morning. Meanwhile I will go over and vote.

Senator SPARKMAN. Senator Cooper.

Senator COOPER. I have to go over and vote also. It is correct that at several executive sessions, testimony has been given to the committee that this was no commitment. That is absolutely correct. But as Senator Sparkman says, this is the first public meeting. The Administration agreed to testify publicly. I think it is proper and I think it is necessary that we search as far as we can to find out whether actually or through implication there was any commitment.

I don't doubt the word of our witnesses that there is no explicit commitment, but I think we have a right to point out the situations which could arise where we could become engaged in a war without any previous commitment. It has been pointed out, as I said, by

having troops in Vietnam we became involved in a war. It has been pointed out by the recent situation in Laos, by the recent situation in Cambodia where the war seems to have been extended. I think the people of the country have a right to know all about these matters. I think it is entirely proper.

I am sorry that the Senator from Wyoming has gone, but I just disagree with what he had to say.

Senator SPARKMAN. I think it has been a good and helpful hearing, and I believe that it will help to allay some of the fears which some of the people have had.

ATTITUDE OF NATO TO SPANISH AGREEMENT

There was one other question I wanted to ask you before I go and that is this: Have you had any objections from any NATO government to this treaty?

Mr. JOHNSON. None whatsoever; none whatsoever. I would say their attitude is quite the contrary.

Senator SPARKMAN. What is that?

Mr. JOHNSON. I would say their attitude is quite the contrary. They are very pleased to see this.

Senator SPARKMAN. Oh, yes; oh, yes.

By the way, speaking of these joint exercises that you have had, you said it was not unusual, particularly for the Navy. Might we not add also right in that particular part of the world. It is a very important part of the world so far as we are concerned; isn't it?

Mr. JOHNSON. It certainly has very special importance at this time.

Senator SPARKMAN. I suppose the committee should stand in recess until Senator Church returns. He answers right at the top of the list. I answer far down, so I can still get there in time. I think it would be well if the committee would stand in recess until Senator Church returns.

Thank you very much, gentlemen.

Mr. JOHNSON. Thank you for your courtesy.

(Short recess.)

Senator CHURCH (presiding). The committee will come to order, please.

I am sorry, gentlemen, you did not have more of a breather than that, but I know you would prefer to finish this morning while you are here, than have it stretch out into the afternoon.

COST OF SPANISH BASES SINCE 1953

I have figures showing how much the United States has invested in the Spanish bases since the original agreement was reached in 1953. These figures show that we have spent \$395.6 million in construction costs, that we have given to Spain since the 1953 agreement \$1.333 billion in economic aid and \$619.7 million in military aid, and that our own expenditures in Spain in connection with the operations of the bases have amounted during this period to \$793 million.

It has been a pretty big piece of business; has it not?

Mr. JOHNSON. Well, I am in no position to question those figures. I think they are in the ball park, at least as far as my information is concerned.

I point out that as far as economic aid is concerned, that was discontinued in 1963 and we have had none since that time.

Senator CHURCH. These figures were supplied to us by the executive agency.

Mr. JOHNSON. Yes, I just do not happen to have a copy.

Senator CHURCH. And they are accurate.

Mr. JOHNSON. I would also point out that so far as this new agreement is concerned, it does not embody or incorporate any figures in those scales of magnitude at all.

Senator CHURCH. These figures ought to be included in the record at this point to demonstrate what a large investment we have made in the Spanish bases over the years.

I understand, Mr. Secretary, that this present agreement will waive any residual claim by the United States to these installations in Spain, is that correct?

Mr. JOHNSON. That is correct. The 1953 agreement was ambiguous on this, and all we did in this agreement was to clarify, to make it clear, that we were not going to have any residual value in any permanent installations.

Senator CHURCH. So that is a part of the cost of the arrangements?

Mr. JOHNSON. It is a part of the arrangements.

Senator CHURCH. Waiving whatever residual claim we might have to the installations constructed?

Mr. JOHNSON. If you assume you would be able to collect anything on the residual claim. As a matter of fact, under the 1953 agreement it is very doubtful. The validity of our claim was very doubtful to begin with.

FUTURE TRANSFER OF PIPELINE

Senator CHURCH. What about the pipeline as another item of cost in this agreement? As I understand it, the pipeline which we constructed will be transferred to the Spanish Government.

Mr. JOHNSON. That is correct. We have offered to transfer it at this time. At such time as the agreement was terminated, that would have been a part of the facilities that would have been turned over and what we offered to do is to expedite that time.

Senator CHURCH. How much did the pipeline cost us?

Mr. JOHNSON. About \$25 million is my understanding.

Senator CHURCH. What is its replacement value?

Mr. JOHNSON. I have seen a figure of \$40 million, but I do not know how solid that figure is.

Senator CHURCH. Last year, when our position was to keep the pipeline, the figures we presented were as follows:

The replacement value was then given at \$128 million and the construction costs were placed at \$46 million. There is quite a difference in the figures. Now you say the replacement value is about \$40 million.

Mr. JOHNSON. The only figure I have ever seen is \$25 million original costs and \$40 million replacement. These are the only figures I have seen.

Senator CHURCH. These were figures that were submitted last year. I would suggest that we supply you with these figures and then if you want to clarify them for the record, you will have an opportunity to do that.

Mr. JOHNSON. Yes.

(The information referred to follows.)

CLARIFICATION OF ACQUISITION AND REPLACEMENT VALUE OF ROTA-ZARAGOZA PIPELINE

DEPARTMENT OF STATE

The D.O.D. Real Property Inventory carries the Rota-Zaragoza pipeline at an acquisition value of \$25 million. We have been unable to reconcile other estimates of its value.

The U.S. Air Force's official estimate of replacement value of the pipeline is \$40 million. Any higher figures cited may include replacement of other facilities in addition to the pipeline, or may simply be inaccurate estimates.

Senator CHURCH. Is it true that, while we own the pipeline, the Spanish Government was paying us for the use of it and that we derived from the Spanish Government about two and two-tenths million dollars a year?

Mr. JOHNSON. It is not the Spanish Government so much as it was Spanish commercial interests. The pipeline was being used about 25 percent to transport our POL (Petroleum, Oils and Lubricants) products and about 75 percent for transporting commercial products which may have included some Spanish Government products. We charged——

Senator CHURCH. But the income——

Mr. JOHNSON. But charged for such transport.

Senator CHURCH. But the income we derived from transporting commercial products will now, with the transfer of the facility itself, be diverted to the Spanish Government.

Mr. JOHNSON. That is right, and we, in turn, will no longer have the cost of operation. We figured that the difference between the \$2.2 million and the cost of operation comes to about \$1 million a year net profit that we were deriving from transporting commercial.

Senator CHURCH. This confers an additional commercial benefit to Spain of about \$5 million.

Mr. JOHNSON. That is correct.

TRANSFER OF NAVAL VESSELS

Senator CHURCH. On the matter of the fleet that is being transferred to the Spanish Government, I understand that that consists of two submarines, five destroyers, four ocean minesweepers, three LST's, two auxiliary ships, an ammo ship, and an oiler.

With respect to the destroyers, we were told that they received extensive modernization in 1964. The submarines were modernized in 1962. Are we presently using these ships?

Mr. JOHNSON. These ships are presently being used but they are scheduled to be phased out of our inventory, and either put in moth-balls or scrapped.

Senator CHURCH. The ships are in reasonably good condition if we are still using them and if they were modernized that recently; are they not?

Mr. JOHNSON. They are in operating condition.

Senator CHURCH. What was the original cost to the United States of this fleet?

Mr. JOHNSON. The total cost of all these vessels at acquisition costs was about \$88 million. That is the figure I have been given by the Navy.

Senator CHURCH. Was that \$88 million?

Mr. JOHNSON. \$88 million.

Senator CHURCH. Does that include the renovation and modernization costs?

Mr. JOHNSON. No, that was original acquisition.

Senator CHURCH. Just original acquisition?

Mr. JOHNSON. Yes.

Senator CHURCH. What were the original costs that were involved in modernizing these vessels?

Mr. JOHNSON. I do not have that figure. The cost of upkeep—many of these ships are very old, as you know—the cost of their upkeep and modernization over the years was substantial.

Senator CHURCH. Having cost the United States at original acquisition price plus modernization well over \$100 million, why were not these ships sold as the aircraft were sold? What do you mean by loaning them to Spain? Is that something new?

Mr. JOHNSON. No, no. Normally under our legislation ships are loaned rather than sold.

As you know, there is provision—

Senator CHURCH. This would require special authorization, would it not, from the Congress?

Mr. JOHNSON. It does.

The submarines and the destroyers require special authorization by the Congress. As I understand it, there is a general authorization covering the loan of noncombat vessels.

Senator CHURCH. Does the loan involve any revenue to the United States?

Mr. JOHNSON. It does not, no.

Senator CHURCH. We are giving them the ships, in effect, for the period.

Mr. JOHNSON. We are loaning them the ships; that is correct. It does save us money for if we were to mothball them we would have, of course, the mothball cost. On the other hand, if we would scrap them, we would have their scrap value. Of course, we have the right of recovery of the vessels.

MILITARY ASSISTANCE AND TRAINING PROGRAM

Senator CHURCH. Then, in addition, we will furnish Spain with \$25 million in military assistance and approximately \$5 million in training; is that correct?

Mr. JOHNSON. That figure really should be 26 rather than 25.

Senator CHURCH. Twenty-six million?

Mr. JOHNSON. I used the figure 25 previously, but it really should be \$26 million.

Senator CHURCH. And we will sell them considerable aircraft, at agreed figures, including the sale of two squadrons of F-4C aircraft, 36 in all, for \$55 million?

Mr. JOHNSON. That is correct.

Senator CHURCH. What was the original acquisition cost to the United States of those aircraft?

Mr. JOHNSON. The total acquisition costs of the aircraft and ground equipment that goes along with it is in the order of \$100 million.

Senator CHURCH. Do we presently, Secretary Packard, furnish our own National Guard with F-4C aircraft or aircraft of this quality?

Mr. PACKARD. I do not know the details of the Air National Guard. We generally have a policy—when we take these older planes like the F-4C's out of the active forces—to assign them to the National Guard, particularly if they are planes for training.

Senator CHURCH. You do not know if planes of this quality are presently being furnished the Guard?

Mr. PACKARD. I do not know offhand what our inventory for the National Guard is. I know we have some 104's and generally a cross-section of most of our planes.

Senator CHURCH. Could you furnish an answer to that question for the record.

Mr. PACKARD. I would be glad to give you that specific information for the record.

(The information referred to follows.)

TYPES OF PLANES FURNISHED U.S. AIR NATIONAL GUARD, DEPARTMENT OF DEFENSE

The Air National Guard does not now have any F-4s but we expect that they will receive at least one squadron of either C or D series during the next fiscal year. They have 32 squadrons of supersonic fighters of which 15 squadrons are tactical fighters, including one squadron of F-104s, two squadrons of F-105s, and 12 squadrons of F-100s. Their air defense aircraft include 14 squadrons of 102s and three squadrons of F-101s.

Senator CHURCH. Altogether, when you consider the costs that we have discussed, in addition to the \$35 million that I understand we are to contribute to a new A.C. & W. (Aircraft Control and Warning) net in Spain—

Mr. JOHNSON. And Spain is contributing \$15 million toward that, yes.

COSTS COMPARED TO VALUE OF BASES

Senator CHURCH. Yes. When you take all of these costs together, it represents a very sizable package. When you look back on past costs, which have been very large, the question that arises is the value of these bases as related to the price we pay for them.

These bases were originally established when we had B-47 bombers. That was the basic weapon in our strategic force, and that was, as you remember, a short-range bomber. The argument was that we needed forward bases in foreign countries so that we, if necessary, could reach the Soviet Union with our nuclear bombers.

The B-47's have since been taken from the inventory. Short-range bombers are gone. Our new bombers are long-range which can be supplied and refueled in the air. We have invested a tremendous sum in providing ourselves that extraordinary capacity.

Furthermore, we were told by the Pentagon that the billions we were to put into intercontinental missiles were to enable us to reach into the Soviet Union, if it came to that, without having to rely on forward and vulnerable foreign bases. Finally, when the Navy came to us for the nuclear submarine and we invested an enormous fortune, the principal argument was that the nuclear capacity enabled us to achieve an independence from further reliance on forward foreign bases. It gave us a global reach, the reason for making them nuclear.

We are now told that forward bases have to be retained, despite these changes in technology. We have not voluntarily relinquished any forward bases in the Mediterranean area. We have given up Wheelus

because the Libyan Government forced us out. We had to give up our major Moroccan bases because the Moroccan Government forced us out. We still maintain forward bases in Greece, Turkey, and Italy. And, of course, we are extending the bases in Spain.

I am wondering why these bases remain so important to us in view of the vast fortune we have spent to equip ourselves with the technology that was to liberate us from the need for maintaining vulnerable forward bases in foreign countries.

Mr. PACKARD. First, Senator, let me go back and make a comment about the cost of these bases. I think it is important to differentiate here between what has been invested in the past; certainly we have invested substantial funds in these bases and in other areas over the past two decades.

If we assess the question of what our costs for these bases are, the question really is what would we pay as a result of keeping these bases that we would not have to pay if we did not have them. That is the cost to us of these bases.

Now, it is true that we do have substantial sums invested in the bases, but you cannot pick those buildings up and bring them home. So in that sense it is not a real cost.

If we could get the Spanish to pay for them under any contingency, that would be another thing.

The pipeline, I think, is a case where we are turning over something of value to the Spanish, and this can be assessed in terms of what its productive worth really is.

Secretary Johnson has already indicated that the net income from the operation of this pipeline is about a million dollars a year, and in a sense we are turning over that for longer than a 5-year period. But when you add this up, we come to the amount we are going to have to pay as a result of this agreement that we would not pay if we did not have this agreement, of about \$75 million. It is probably a little more than that because some of the nonmilitary assistance has not been determined yet. We have a \$3 million commitment for this year, and we hope that we can support some additional efforts in the nonmilitary sector.

Now what you say about the original use and need for the bases is right; they were used in order to provide forward bases for the shorter range aircraft.

The use of the bases now has changed in relation to the deployment of our nuclear submarines.

While these submarines are nuclear and have capability of going on a worldwide basis, their effectiveness in terms of their deterrent is much greater if they are stationed in bases where they can be on station, so to speak, an appreciable part of the time.

Senator CHURCH. May I ask right there, Mr. Secretary, if a base in Spain is really that important, why do we go to the expense of building them nuclear? Why don't we use conventional powered submarines if we are going to depend on forward bases for submarines that do have shorter range and do need accessible bases to come home to?

Mr. PACKARD. Senator Church, the answer to that question would get into some classified material, and I do not think I can respond to that now except to say that nuclear submarines can stay under water for a very long period of time. Diesel submarines have to come up

and charge their batteries or use their snorkel; so there is a very important reason in addition to the long range for the use of nuclear submarines in this role.

Now the other uses of the bases involve training and, as you know, we had a very extensive training facility at Wheelus that was used by our Air Force. When that base was lost, we were able to transfer some of this training to the Spanish bases and that is a very important asset for the training of our NATO forces.

We have in Spain a number of communications facilities. So all in all, even though the original use of these bases is no longer the reason we need them, we have a number of very valid reasons to maintain our forces in Europe and particularly in the Mediterranean.

PRESENT USES OF BASES

Senator CHURCH. As a concluding phase to this question, Mr. Secretary, I would like to ask you about these present uses, the new and changed uses, that require us to retain these bases. I want to have on the record the present use and the way this agreement might affect future use.

Do we at the present time fly patrol missions in the Mediterranean from the Spanish bases?

Mr. PACKARD. We have submarine patrol missions that cover both the Atlantic and the Mediterranean.

Senator CHURCH. Do we fly training missions in the Mediterranean area from the Spanish bases?

Mr. PACKARD. Basically, the training is conducted at the range there in Spain and that, to my knowledge, virtually all of the training is limited to the geographical confines of Spain.

Senator CHURCH. That the training is limited to Spain itself.

Mr. PACKARD. Yes.

Senator CHURCH. Is that the only limitation that applies to the training missions?

Mr. PACKARD. These bases, when they are used for training missions, involve a number of training actions that are related to capability. There is no particular limitation in terms of training that I know of.

Senator CHURCH. We use them then for training and for supply.

What was the experience in the use of the bases in 1967 at the time of the Arab-Israeli conflict?

Did the Spanish require us to halt our patrols coming out of Spain at that time?

Mr. JOHNSON. I do know in 1967 we used the bases for the evacuation of our personnel from the Middle East. I do not recall—

Senator CHURCH. The question was did the Spanish require us to halt our training and patrols which were originating from the Spanish bases at that time?

Mr. JOHNSON. I have just not heard of that.

Senator CHURCH. Did the Spanish require us to halt our training missions flown from Spain at that time?

Mr. JOHNSON. No, I am informed we carried on our normal activities in 1967.

LIMITATIONS ON THE USE OF BASES

Senator CHURCH. Were there any limitations imposed by the Spanish Government on our use of the bases during the Israeli-Arab conflict?

Mr. JOHNSON. No, we have never raised the subject with the Spanish.

Senator CHURCH. Did the Spanish? You have mentioned use of the bases for the evacuation of personnel.

Mr. JOHNSON. That is right.

Senator CHURCH. Did the Spanish at that time limit the use to the evacuation of American personnel?

Mr. JOHNSON. I do not recall that they did. Of course, our aircraft were evacuating primarily American personnel. I certainly do not know that they said there could not be any other personnel.

Senator CHURCH. Don't you recall the incident of an Israeli wife of an American officer and the problem that arose concerning that?

Mr. JOHNSON. I was not here at the time, sir, and I just cannot answer that.

Senator CHURCH. Have the Spanish told us that they would not permit the bases to be used in the event of an Arab-Israeli war if the United States were supporting Israel?

Mr. JOHNSON. We have had no discussion on the subject with the Spanish Government.

USE OF BASES IN EVENT OF WAR

Senator CHURCH. Under the agreement, if the Spanish choose, they could limit our use of the bases if war broke out in the Middle East; isn't that true?

Mr. JOHNSON. We are obliged to consult with the Spanish Government; that is correct.

Senator CHURCH. Even if a general war were to break out, although you would expect the Spanish in that case to permit us to use the bases, still the agreement requires the consent of the Spanish Government before we could use them.

Mr. JOHNSON. It requires us to consult and take into account the views of the Spanish Government.

Senator CHURCH. Do you mean if we consulted and if they refused to give their consent, if their views were against the use of our bases, we would go ahead and use them anyway?

Mr. JOHNSON. We would have to make the decision at that time.

Obviously we would have to take into account their views.

Senator CHURCH. But in the event of a general war, your interpretation of the agreement is that the obligation of the United States is to do no more than consult and take into consideration their views.

Mr. JOHNSON. That is correct. We treat this in the same way as we treat our bases in any other country; that is, we are obliged to take into account the views of any country in which we have bases, and this is nothing more or less than what in this agreement so far as Spain is concerned.

Senator CHURCH. However, you do not interpret it as requiring the consent of the Spanish Government in the event of a general war before we can make use of the bases.

Mr. JOHNSON. We would hope to have their consent and their agreement and we would expect to have it.

Senator CHURCH. I understand that. However, that is not quite responsive to the question.

Mr. JOHNSON. I cannot go beyond that.

Senator CHURCH. Then we will go on.

NO SPANISH OVERFLIGHTS WITH NUCLEAR WEAPONS

A question concerning the past, Mr. Secretary: You will recall when certain H-bombs were lost in Spanish waters. What limitation did the Spanish Government impose at that time that related to our activity in Spain?

Mr. JOHNSON. We have agreed not to overfly Spain with nuclear weapons.

Senator CHURCH. That was done as a result of a demand made by the Spanish Government following this incident; wasn't it?

Mr. JOHNSON. As a result of negotiations between the two governments, we agreed to do this.

Senator CHURCH. Does that limitation still apply?

Mr. JOHNSON. We are still not overflying Spain.

Senator CHURCH. You will not overfly Spain with nuclear weapons.

Mr. JOHNSON. We are not overflying Spain with nuclear weapons.

Senator CHURCH. Under the new agreement?

Mr. JOHNSON. It does not change that.

Senator CHURCH. It does not change this understanding that we will not overfly Spain with nuclear weapons.

Mr. JOHNSON. That is correct.

Senator CHURCH. That would mean we could not fly into the base or out of the base with a nuclear weapon; isn't that true?

How could you come to the base and leave it without overflying Spain?

Mr. JOHNSON. We would obviously have to consult with the Spanish Government on that.

Senator CHURCH. Given the kind of aircraft, the speed and the range that now exists, is it reasonable to assume that U.S. planes can undertake the air defense of the U.S. forces in Spain without undertaking the mission of the air defense of Spain itself?

Mr. JOHNSON. Certainly if we would defend our own forces there from the air, obviously that would contribute to the air defense of Spain. But it is a different thing to undertake the total air defense of Spain than to do whatever is necessary just to defend your own forces.

LIMITATIONS ON USE OF AIRFIELDS DURING ISRAELI-ARAB WAR

Senator CHURCH. For purposes of completing the record, I have here a story taken from the New York Times which deals with the Spanish limitations imposed on the United States use of airfields during the Israeli-Arab war. It would be appropriate, since it conveys a different view, to include it in the record at this point.

(The information referred to follows.)

[From the New York Times, Aug. 14, 1970]

SPAIN SAID TO FORBID U.S. Use OF AIRFIELDS IN MIDEAST CRISIS

(By Neil Sheehan)

WASHINGTON, Aug. 13.—The United States cannot use its three air bases in Spain for military operations during any crisis involving the Arab states and Israel, informed military sources said today.

The United States signed an agreement last week to provide Spain with \$300-million in loans, grants and military equipment and facilities as a five-year rental for the three airfields and a Polaris missile submarine base at Rota.

The sources said the Spanish Government had made clear to the United States that the three air bases could not be employed for any kind of American military action, either during fighting between Israel and Arab countries or in any clash between the United States and the Soviet Union arising out of an Arab-Israeli conflict.

Two of the air bases, now in use by the United States Air Force for training, are at Torrejon and Saragossa. The third airfield, at Moron in southern Spain, is a standby base. The Polaris base at Rota does not figure in Middle East contingency planning because it supports submarines whose mission is to deter a nuclear war with the Soviet Union.

FORM OF CURB UNKNOWN

The sources said they did not know whether the restriction on the use of the air bases was contained in the secret annex to the agreement, which the State Department has not made public, or had been set forth by the Spanish orally during the negotiations that preceded the agreement.

Senate sources as well said it was their belief that the Spanish had forbidden the use of the bases for military contingencies arising out of Arab-Israeli conflict. But they added that the Senate Foreign Relations Committee had been unable to get the State Department to clarify the question.

U. Alexis Johnson, the acting Under Secretary of State, avoided a direct answer to the question when it was put to him during testimony before the committee on the Spanish bases agreement July 24, the Senate sources said.

They said the State Department had also refused to let the committee publish secret testimony by Mr. Johnson last year that would throw light on the subject. Mr. Johnson played the principal role in negotiating the agreement with the Spanish.

Earlier this week the State Department informed the committee that it would not consent to a request by the chairman, Senator J. William Fulbright of Arkansas, that Mr. Johnson and other officials appear in public hearings on the base agreement.

Asked today about the restriction on the use of the air bases, a State Department spokesman declined comment.

The portion of the agreement made public by the State Department provides for consultation between Spain and the United States before the bases can be used for active military operations and, in effect, gives Spain a veto over their employment. The language states, however, that "each government retains the inherent right of self-defense," a clause the State Department has not explained.

The previous agreements that governed the use of the bases, first established in 1953, contained a secret annex that also gave Spain a veto over their employment. The Spanish did permit the United States to use the bases during the Lebanon landing in 1958.

In recent years, however, the Spanish have become concerned that the use of their territory by the United States for any action that might be interpreted by the Arabs as supporting Israel would endanger the extensive Spanish interests in North Africa.

During the 1967 Arab-Israeli war, the Spanish forbade the United States to use the bases for air support, reconnaissance operation or other military operations in the event of American involvement in the conflict. Spain did allow the United States to evacuate American dependents from the Middle East, however.

Greece and Turkey also have forbidden the use of American airfields on their soil for military operations related to an Arab-Israeli conflict.

Senator CHURCH. That is all, gentlemen. I want to thank you for coming and for staying until 12:30, and I appreciate very much your responses to questions.

Mr. JOHNSON. Thank you.

Senator CHURCH. And providing the public this information has been very helpful.

Mr. JOHNSON. Thank you, Mr. Chairman.

(Whereupon, at 12:35 o'clock p.m., the committee adjourned.)

APPENDIX

[From the Congressional Record—Senate, July 31, 1970]

SPANISH BASES

Mr. FULBRIGHT. Mr. President, this morning's New York Times published a news dispatch by Richard Eder datelined Madrid. This account reports that the Spanish base agreement was submitted to the Foreign Relations Commission of the Spanish Cortes.

I do not believe it has been finally signed by our Government, but the substance of it has been agreed upon. A copy of the agreement was discussed informally before an executive meeting of the Committee on Foreign Relations last week relating to a renewal and extension of the Spanish bases agreement.

The lease for these bases was originally made in 1953, and extended in 1963. Now, we come to an extension of 5 years, involving a great many new undertakings.

There are two or three things about this news account I wish to call to the attention of Senators. The news account reports the agreement has been submitted to the Foreign Relations Commission of the Spanish Cortes. As Senators know, the Cortes is something less than independent; and it certainly is not as independent as the Senate and Congress. Yet the agreement has been submitted to them for their approval. As far as I know they do not have the same constitutional provision we have with regard to consent of the Senate to a treaty.

The point I make is that this is a very important treaty. The news account outlines some of its provisions. There is reference to credits of \$125 million, plus an outright grant of \$20 million. I thought it was \$25 million but the article states \$20 million in cash, I believe each year. There is also reference to the sale of a number of F-4 phantom jets. This account does not purport to give all the details but apparently they have the right to buy 36 phantom jets for many millions of dollars. Their worth is estimated at more than \$100 million.

The article states that "a squadron of 25 new F-4-E's, the only model still in production, would be about \$110 million to \$120 million. The ones being sold and offered to Spain are used F-4 jets and are certainly operable.

The point I make is that this type of agreement should be submitted to the Senate in the form of a treaty. I have asked our State Department to submit it as a treaty. They have not finally decided one way or the other, although the reluctance to make a decision would indicate that they do not intend to submit it as a treaty. Among other reasons they allege they are afraid it might be delayed in the Senate. I could not guarantee it will not be, but I can guarantee it will receive the immediate attention of the committee; and the committee will be given the opportunity to vote on it, and I see no occasion for any delay.

This is not the kind of matter that is normally subjected to delaying tactics, and on this occasion I again urge the administration to submit this agreement to the Senate for its approval. It is not only the material things which are involved such as the money and the planes; it is the significance of the treaty as a security undertaking. In other words, are we to understand from this treaty that the United States obligates itself to come to the assistance of Spain in case of difficulty? This is tied in precisely with the commitments resolution which this body adopted last year. It is relevant to much of the debate with regard to the current bill for military procurement.

The Senator from Mississippi, the Senator from Arizona (Mr. Goldwater) and others have said that if we are ever to make any reduction in our military establishment we must tailor our agreements and our obligations to fit those reductions. With that principle I agree. Here is an example where there is an opportunity for the Senate to tailor these obligations, but it is denied by the procedure followed by the Executive. The Senate is to be denied the opportunity to pass on the nature of this agreement and whether or not it is in our interest to make it.

Even in Spain there is a difference of opinion as to the full effect of the language of the agreement.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. FULBRIGHT. Mr. President, I ask unanimous consent that I may proceed for 5 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FULBRIGHT. Mr. President, I will read a part of the language in the article:

"Although much of the Spanish press has commented on what it terms the meager amount of aid being offered by the United States, most have reported that the American commitment to defend Spain . . ."

I emphasize those words "to defend Spain."

"... has been increased from the terms of the 1963 joint statement, which declared that 'a threat to either country would be a matter of common concern.'"

"Some sources familiar with negotiations take the opposite view. A phrase referring to United States agreement to 'support the defense system of Spain' does not necessarily involve anything more, they say, than the furnishing of equipment and technical assistance."

Mr. President, that illustrates clearly the differences of view here. What is the purpose of hearings before the committee and debate on the floor of the Senate but to determine what it does mean? One of the secretaries or assistant secretaries could come before the committee and say, "In our opinion this is not a security agreement," or "In our opinion it does not mean we go to their assistance, and send arms in support." On the other hand some people will say, "Look at the language." Here is what it states: "We have to go to their assistance."

We were confronted with the same type thing in connection with the Gulf of Tonkin. Secretary of State Rusk said, in effect, "The purpose of this is to prevent a wider war or any war." The President himself in the White House said, in effect, "If you do this it will show unity. There will never be a war. The North Vietnamese will never challenge this great country. All we have to do is to show unity, get behind the President, and there will not be any war." That is the purport of what he said. Look at the hearings and look at what the Secretary of State said before the Committee on Foreign Relations:

"If you quickly pass this and show unity the North Vietnamese will not challenge the United States. We are too powerful. This is the way to bring this unfortunate conflict to a close."

In this case the likely development would be that in case of trouble in the future we will be confronted with the statement that we agreed to support the defense system of Spain, and that it is clear what the language means. It would be said that we have the commitment and it is our duty to send the men and the money.

This Spanish agreement is a classic example of how to enlarge the commitments of this country by secret agreements and executive agreements without the approval of Congress.

I close with this thought. It is the responsibility of the Senate, and I think it is the duty of the Senate under the Constitution, to insist that agreements of this kind which may result in the creation of an obligation to go to the defense of a foreign country with men, money, and arms, be passed upon by the Senate. I do not assert that this agreement should be turned down or that it is improvident; I have my reservations about it but I say without question it is the responsibility of the Senate to exercise its duty and its responsibility in examining it and to come to an understanding, at least the majority of this body, as to what it means, the significance of the kind of undertaking that is being negotiated in the agreement and whether to approve it or disapprove it.

I do not see how any other course could be acceptable to the Senate. To proceed to this kind of commitment on the basis of an executive agreement, in secret, without any approval of the Congress, would I think be unconstitutional. I grant that the decision as to where one draws the line between executive agreements and treaties is not a clear one, but I think this is so far on the side of an important engagement that there is no question about it.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. FULBRIGHT. I hope the administration will send it up as a treaty.

Mr. JAVITS. Mr. President, if the Senator from Arkansas would bear with me a moment, I wanted to ask him to yield, and I wanted the floor in my own right also. I would like to make a comment on what he has said now.

As a member of the Foreign Relations Committee, I believe the Senator from Arkansas is right about the fact that because it might be uncomfortable to a dictatorship, to wit, Franco Spain, is no reason why we should not bring this up rather than make a deal with a dictatorship relating to bases. The Senator is right when he says that if our society is to mean what it says, we have to be straight and honorable and courageous enough to face whether the people have confidence in the executive and support him or not.

Personally, much as I disapprove of the Franco dictatorship, I would like to take a look at such an executive agreement or treaty objectively, and would vote for it, even if I has to hold my breath, if I were convinced that it was in the interest of the security of the world and of the United States.

The difficulty is that officials of the administration have been in to see me—and I am sure others—to challenge the assertion that this is a commitment. However, we would have to look at the front and the back of the agreement to determine whether this is the same, more or less, in order to make a determination whether or not this does represent a commitment. If it did, there is no question of the fact that it ought to be a treaty.

I have two suggestions to make. The first is that I think the Secretary of State himself, in the name of the President, ought to state authoritatively what view the United States will take if there is trouble, because we have the protection that, if it is not a commitment, they still have to come back to us. If it is a commitment, then there should be a treaty.

The other suggestion is that if we are going to get into an area something like an undeclared war—because it is unwise to make a declaration of war because the way of the world indicates it would bring many obligations and responsibilities into it that we may not like or want—therefore, others, like myself, are trying to determine how to handle the question of the powers of the President and the war powers of Congress.

Perhaps a new technique would be that if we should have only the advise and consent role, without the treaty, it is not enough for us and the Foreign Relations Committee to be consulted; perhaps it may be necessary to invoke—

THE PRESIDING OFFICER. The time of the Senator has expired.

MR. JAVITS. Mr. President, I ask unanimous consent to proceed for 7 minutes.

THE PRESIDING OFFICER. Without objection, it is so ordered.

MR. JAVITS. Perhaps we ought to invoke a closed door meeting of the Senate so that at least, if the administration chooses not to submit this matter as a treaty, the Senate knows everything we know and the Senate is acquainted with the commitment the administration has undertaken, in the way it will interpret the words of the bond, and what interpretation we have made, and what we know, and the text of the agreement. Then, it seems to me, the function of the Senate will have been served notwithstanding the choice of the administration not to submit to the Senate a treaty.

In short, to summarize, I think we are entitled to assurance from the highest levels of government that our Government will in no way construe this as a commitment, no matter what we may think about it, if it chooses not to submit it as a treaty. Otherwise we should insist it should be so submitted.

This is a major matter. It is not a little base in some small place or some interim arrangement that could be taken care of by some small agreement. At least Senators ought to know what is in it and what the agreement is. It should be submitted as a treaty so we know what it means as a commitment by the United States.

MR. FULBRIGHT. May I repeat it—I do not think there is any excuse not to submit it for approval as a treaty. May I also point out that I have no serious misgiving about Mr. Franco. When we look at all the countries we are doing business with, to me Spain is a more civilized and liberal dictatorship than the one in South Vietnam, if we want to make comparisons. We are making great sacrifices to help South Vietnam. I have never heard of anything like the Con Son Prison in Spain. As a matter of fact, I think the Spanish people have made great progress. They do not have a democracy such as we have and prefer. It is a dictatorship, but it is a relatively progressive one and has brought substantial benefits to the Spanish people. It is more humane and considerate of people than the Greek dictatorship.

I am sympathetic to the Spanish people, and I do not feel any animosity at all toward the Franco government although I do not advocate or approve of that system for others. I think, in light of their circumstances of the dreadful civil war they have done rather well, in recent years. In any case it is their affair how they run their country. It is our affair how we treat them and whether or not we have a security treaty with them.

But coming back to the matter of the treaty, I do not think it is satisfactory to simply leave it without any publicity without the American people knowing what is in the agreement officially. This agreement is made by men temporarily in the executive branch. They all are temporary, and Secretaries will succeed other Secretaries, just as Secretary Rusk succeeded Secretary Dulles. Secretary Rusk took quite a different view of the SEATO Treaty than Secretary Dulles did, but at the critical time Secretary Rusk and his administration were in control.

However, to follow the Senator's suggestion, that would be better than nothing. I would also like to have it very clearly on the record what the Spanish Government thinks about it, because it is quite clear that in Spain there is a division as to whether or not this is a commitment for us to come to their defense. If they will make it very clear and public that "we think there is nothing in the agreement that would require us to go to their defense," that would fortify our own understanding and then there would be no excuse for them or any one to come back and say, "Look, we are in trouble. Send us 100,000 men."

I think there are well over 10,000 U.S. Military people in Spain now, and it is a very expensive operation. There are many things not mentioned in the article that are involved in the overall agreement. It is a very important one. I hope the Senator from New York will use his influence on this administration to persuade them that, in their interest, in the Senate's interest, and in the interest of the country, they ought to have an above-board treaty agreement, with full debate and understanding as to what we are getting into.

It has much to do with the bill we are debating, and the extent of our military establishment. If we keep on accumulating commitments around the world of this kind, there is utterly no hope of bringing the military appropriation under control.

Mr. JAVITS. Mr. President, I thank my chairman very much for this expression, which I think in itself will be a very helpful contribution to what he and I are both trying to accomplish.

[For release Monday A.M., August 3, 1970]

STATEMENT BY SENATOR J. W. FULBRIGHT

Mr. President, if the Senate and through it the people of the United States are to regain for themselves their responsible role in the making of commitments with foreign countries, action must be taken within the next two weeks with regard to the proposed agreement with Spain. That draft agreement sets the political and military terms for the extension of our military base rights in that country.

We should have learned from the tragic war in Vietnam, which spread first to Laos and now to Cambodia, that in taking the first step of a commitment any Administration, whether it be headed by President Nixon, President Johnson, President Kennedy, or some future President, must see down the road where that first step could lead. A commitment today which requires the spending of money and results in the stationing of our troops on foreign soil contains the prospect that sometime in the future it might require the spending of American lives.

The Administration must come to accept, and we in the Senate must press for public hearings so that a commitment such as the one we are about to continue and expand in Spain is not ambiguous; and so that some future President will not face the need of having to fight either a secret war or one which the public and the Congress had never authorized.

There is some irony in the present situation with regard to the Spanish agreement. Few in this body or in this country would deny that Spain, if not an outright military dictatorship, has few characteristics of a democracy. Yet under Spanish law, the proposed United States-Spanish base agreement must be approved by its legislative body, the Cortes. And according to information supplied me by the Department of State, the Foreign Relations Commission of the Spanish Cortes must give authority to the Spanish Government before its Foreign Minister can sign the proposed agreement.

Let me relate, however, the situation with regard to *this* country and the manner in which, under our "democratic" system, this Administration—like its predecessors before it—seeks to gain approval for this agreement without public hearings or Congressional approval. There have been, over the past year and a half, a number of closed hearings before the Senate Foreign Relations Committee on the Spanish base negotiations. Only at the last meeting—on July 24, 1970—did the Administration, through the Under Secretary of State for Political Affairs U. Alexis Johnson and the Deputy Secretary of Defense David Packard, present the details of the proposed agreement. That meeting was called on two days' notice and only five members of the Committee, including myself, were able to attend. During the two-hour session, a number of questions were asked pertinent to this agreement.

There was little discussed in that secret meeting that could not be discussed in public, and there is more that should be. In fact, I believe that before this agreement is signed, whether in its present form or as a treaty, all of its details

should be discussed in public from the political and security commitments involved to the quid pro quo that has been promised. Because of the security classification attached to this information, however, I find it necessary to discuss the details of the agreement not as presented in secret to the Committee, but in terms of information published in the press from sources in Madrid—which must include not only Spanish Government officials, but also American Embassy personnel—and articles published here in Washington, sources for which are unnamed officials in the Departments of State and Defense.

Another irony of present-day foreign policy discussions in Washington is that the Foreign Relations Committee is criticized by the Administration as the source of “leaked” information when in fact almost all information “leaked” to the press on foreign policy matters comes from Administration sources. I believe that the one difference is that “security” information from the Committee sometimes does not support the Administration, while “security” information “leaked” from the Administration is done so as to give support to that policy. One, therefore, is bad and the other goes unnoticed as part of the daily routine.

But using as a guide that information which either the Spanish or the State Department feel can be discussed, I would like to focus attention on the quid pro quo mentioned and its implications, not just for Spain but for United States relations around the world. According to the *New York Times* of July 31, in a story from Madrid,

“The United States has agreed to make 36 used F-4 Phantom jet fighter-bombers available to Spain as part payment for a new five-year agreement allowing American forces to use three bases there.

“The Phantoms are of an early type, still in use by the United States Air Force but no longer being manufactured, according to informed sources.”

Mr. President, the provision of F-4s to Spain, whether by grant or at some cut-rate price with credits, represents both an important military and political step for the United States. It is a military step because, although these apparently are an early type of F-4, they are still of a type being used by the United States, and to provide them to another country will reduce our F-4 stocks by that amount. I see that in the bill before us the Administration is seeking 24 F-4Es at a total cost of \$71.3 million. What relationship does our disposal of 36 old F-4s have to our buying 24 new ones or to some future agreement to buy new ones?

The proposed transfer of F-4s, however, carries added implications. Who has already forgotten the pressure that developed in this Congress for providing a squadron of F-4s to Taiwan—which has none and wants some? Who has forgotten the \$35 million gift of F-4s to Korea which has already indicated it wants more? And what about the Greeks, and the Turks and even the Portuguese—having approved the transfer of 36 F-4s to Spain, how can we resist the demands of other countries?

What is the threat facing Spain today that requires an additional 36 of the most potent fighter bombers in the world? I make that remark noting that Spain has recently purchased 30 Mirages from France; that it already has F-5s and F-104s; and that the United States has 54 of its own F-4s stationed on Spanish soil. I submit that that presents an extraordinary force of jet combat aircraft for a country at war with no one, whose territory borders on two allies and who, as far as I can see, faces no threat requiring such a formidable air combat force.

Newspaper stories have detailed other parts of the quid pro quo military aid package which in total represents, by my calculations, close to \$300 million worth of arms, weapons systems and ammunition. I include in this the reported Navy vessels—five destroyers, two submarines, four minesweepers, three LST landing ships and other smaller ships totaling some \$143 million in value—which are to be loaned rather than given as outright grants.

News stories have also listed a variety of Army equipment which totals somewhere near \$25 million in value and includes tanks, armored personnel carriers and helicopters, none of which seems related to any apparent ground threat facing the Spanish Government—except perhaps as planning for some future internal crisis.

In addition to the above, the United States is prepared to furnish other equipment—not mentioned in the press—and turn over to Spain United States facilities in Spain. These added items represent the Administration's latest figures, a value of near \$100 million.

Mr. President, by using published material, by hedging what the Administration will permit to be said under its own self-serving rules of classified information, one can easily describe the direct and indirect costs of the Spanish agreement as near \$400 million over five years. On dollar terms alone I would not in any sense describe that as an insignificant figure.

But there is more money than just the Spanish \$400 million involved in this agreement. The Portuguese, the Greeks, the Turks, the Ethiopians, the Thais, the Filipinos, the South Koreans, the Taiwanese, even the Japanese are watching to see what kind of settlement the Spaniards receive. We have bases in each one of those countries and thus the costly price paid Spain could and probably would be repeated many times over.

Money, however, is only one—and possibly the lesser—part of the danger in the Spanish agreement and the manner in which it has been handled vis-a-vis the Congress and the public.

The Spanish agreement represents the boldest—and going back to 1953 perhaps the first—attempt by the Executive Branch since World War II to have a security commitment by executive agreement and thus avoid the need for Senate advice and consent to a treaty.

It is an open secret between the executive branches of the Spanish and United States Governments that since 1953 we have had a de facto military treaty. And as long as it was not in statements before the Senate Foreign Relations Committee, Administration officials felt free to admit it.

During one of our closed sessions on Spain, Under Secretary U. Alexis Johnson, who has negotiated each of the agreements since 1963—including the present one—referred to Benjamin Welles, the former *New York Times* Madrid correspondent, as a trustworthy commentator on Spain. In his book on that country, *The Gentle Anarchy*, Mr. Welles wrote:

“To coat the pill for Congress and liberal U.S. sentiment, the (original 1953) Washington-Madrid link was designated an ‘executive agreement’ rather than a military alliance since it did not specify the mutual obligation of the two governments in case of war.”

Mr. Welles went on to describe further how the 1963 revision of the agreement included language suggested by the then Spanish Ambassador and derived from his study of all the treaty language then operative between the United States and its allies.

The result was the Defense Agreement and Joint Declaration of 1963 which read:

“A threat to either country, and to the joint facilities that each provides for the common defense, would be a matter of common concern to both countries, and each country would take such action as it may consider appropriate within the framework of its constitutional processes.”

In hearings before the Foreign Relations Committee during March and April 1969, both then Under Secretary Richardson and Under Secretary Johnson strongly denied this language represented a commitment—despite the fact that a simple reading shows it does. And despite the fact that, as Mr. Welles’ book tells us, the Spanish who drafted it clearly intended it to.

This new 1970 agreement drops that old language and adopts new phrases such as United States “support for the defense system of Spain,” which has been reported in the press.

Under Secretary Johnson, in our closed hearing last week, maintained that the new language represents no commitment. Asked why the 1963 language was not repeated, Mr. Johnson replied:

“... let me say during our discussions with the Spanish in their efforts to get language which I would interpret as a commitment they pushed very, very strongly for getting this language that was in the Joint Declaration of 1963. I have said that we could not do that without entering into a mutual defense treaty, and this was a road that we did not want to go.”

If I may freely interpret Mr. Johnson’s words—a year ago the 1963 language was not a commitment, because at that time the State Department intended to continue that language in effect. This year, with new language drafted, the reason for dropping the old language was because Mr. Johnson now interprets the old language as a commitment.

Mr. Johnson is not the only Under Secretary who appears to have changed his mind about the Spanish commitment. Former Under Secretary Nicholas Katzenbach, in his statement last week before a House Foreign Affairs Subcommittee suggested, rhetorically, that he too now can see the commitment in the Spanish agreement.

“Many of our treaties qualify U.S. obligations by reference to Constitutional processes. Such a provision is contained, for example in the SEATO agreements, in our defense agreement with Spain, with Korea, with the Republic of China and many others.”

Mr. Katzenbach, free of the burden of office, appears to drop the facade and list the Spanish agreement among “our treaties.”

Perhaps the frankest recognition of the U.S.-Spanish relationship was that given by then Chairman of the Joint Chiefs of Staff General Earle G. Wheeler in November 1968, during secret discussions. General Wheeler said:

"By the presence of United States forces in Spain the United States gives Spain a far more visible and credible security guarantee than any written document."

Considering the manner in which this Administration interprets the President's authorities as Commander-in-Chief to defend his troops—as witness the Cambodia invasion—General Wheeler's statement appears valid indeed.

Mr. President, the question facing the Senate is what it can do with regard to the Spanish agreement consistent with a responsible execution of its Constitutional responsibilities.

The Nixon—as did its predecessors—Administration seeks to limit public knowledge and public discussion of the agreement using its ability to declare as classified material whatever it wishes. A more open discussion of this important question is taking place in Franco Spain through the government-controlled press and that country's parliament than is taking place in our country.

In order to avoid even a public hearing before the Foreign Relations Committee, State Department officials are seeking support for a move to have last week's closed hearing sanitized and released.

Mr. President, I oppose such a course, and to support my position I must note that in closed hearings on Spain over the past 16 months before the full Committee and the Symington Subcommittee Administration officials, whether consciously or not, have clearly misled the Committee on a variety of matters. In short, a reading of all the transcripts involved—closed hearings held on March 11, 1969; April 2, 1969; April 14, 1969; June 5, 1969; April 22, 1970; material submitted for a Subcommittee hearing on July 17, 1970; and July 24, 1970—shows that facts are being tailored—even changed—to fit the end desired at the time by the Administration.

Under Secretary Johnson's change of view on the 1963 language is only one example. Let me cite others:

In 1969, when the Administration sought to retain control of and to defend the value of all the Spanish bases, their total cost was listed as \$395,600,000 and replacement cost—at 1967 prices—at \$1,088,000,000. In 1970, when it was disclosed that the new agreement included turning over all residual value of the bases to the Spanish, the original cost was listed at \$322.8 million and residual value at \$125 million. No replacement cost was included. In short, if the objective is to retain control of them, they are very valuable; if the objective is to justify relinquishing them to Spain, the value is insignificant.

Or take the case of one specific group of facilities which under the new 1970 agreement is to be turned over to the Spanish. In 1969, when the United States was planning to hold it as part of our needed Spanish facilities, these units were said to have cost us \$46,600,000 to construct and would cost—at 1967 prices—\$128,200,000 to replace. Last week, in presenting the backup for the new agreement, the Administration declared the facilities had a current value of "at least \$25 million" and a replacement value of "about \$40 million." In a submission one week earlier, the Administration said the facilities originally cost \$26 million to construct.

In matters of substance, Administration witnesses use classified information at closed hearings to suit their own purposes. For example, in 1969, when defending the need for the Spanish bases, General Wheeler freely gave the Committee, in closed session, the details of contingency plans to show the importance of the Spanish facilities. Today, Administration witnesses refuse all testimony about contingency plans. Only open public hearings, going over the details of the agreement and the quid pro quo involved, can—under our form of government—satisfy the need for public understanding of this commitment to Spain.

Only affirmative Congressional action, through a treaty, convention or other legislative instrumentality can meet the Constitutional requirements and, more importantly, provide the measure of public support for the continuation of this security undertaking.

Therefore, I will introduce later this week an amendment to the Procurement Act, H.R. 17123, which will read substantially as follows:

"After January 1, 1971, none of the funds authorized by this or any other Act may be obligated or expended, directly or indirectly, for purposes related to the stationing of forces or other military uses by the United States of military bases or facilities in Spain except in consequence of affirmative action taken by the executive and legislative branches of the United States Government through means of a treaty or convention."

I believe it fitting it be attached to this measure for within this bill not only is some of the equipment destined for Spain under the agreement, but also is authorized the purchase of new equipment which will replace that being given or sold to Spain.

I do not believe affirmative Senate or Congressional action will in any measure increase the commitment already implicit in the Administration's draft agreement—just as I do not believe disclaimers by the Administration to the Congress lessen the obvious commitment that exists.

The agreement with Spain represents a serious political step and one that promises to cost hundreds of millions of dollars. The process of orderly constitutional government requires past practices to be changed and public support to be obtained for such actions.

[From the Congressional Record—Senate, Aug. 6, 1970]

SPANISH BASES

Mr. FULBRIGHT. Mr. President, it is because of my grave concern for the overall relationship between the executive and legislative branches in the sensitive area of foreign policy that I speak today of the manner—not the substance—in which the Government of the United States is about to enter into an important agreement with Spain. The foreign policy implications of the agreement spread far beyond Spain. But the domestic implications are even broader. They go first to the administration's respect for the commitments resolution—a sense of the Senate resolution that was approved last June 25 by a vote of 70 to 16.

They go second to the administration's sense of the public's role in understanding and thus supporting foreign commitments.

Finally, events of the past 2 weeks go to the serious question as to the accuracy of representations made by Department of State officials to the Foreign Relations Committee with respect to the timing of the signing of the Spanish agreement.

In my speech of Monday, I said:

"If the Senate and through it the people of the United States are to regain for themselves their responsible role in the making of commitments with foreign countries, action must be taken within the next two weeks with regard to the proposed agreement with Spain."

That time limit was set advisedly because I was aware the State Department wished to sign the agreement prior to September 26, the date on which the current extension runs out. I hoped for some Senate action well before that date and thus before Congress was presented with a fait accompli in the form of a signed agreement.

It was with some surprise, therefore, that I received the information yesterday afternoon from Secretary Rogers that the signing was to take place tomorrow.

Prior to that notification, all the information I had received had indicated the signing would await a response to my request for some form of public discussion if not specific Senate approval in terms of a treaty.

That point was made a number of times during the discussion of the agreement before the committee on July 24 with Under Secretary of State U. Alexis Johnson and Deputy Defense Secretary David Packard.

I do not think there is any security regulation violated by my recalling the statements made to the committee by those two gentlemen 11 days ago.

Secretary Packard at one point said:

"I do not disagree with the idea that there ought to be free discussion and we ought to talk about whether this is a good or not a good arrangement."

He later added:

"I think we ought to consider this suggestion (for an open hearing). We will give it consideration."

In response to a suggestion that—in order to guarantee congressional and public understanding of the implications of the agreement—it be submitted as a tragedy or that the public hearings be held. Under Secretary Johnson asked whether publication of a sanitized version of that day's hearing would serve the same purpose.

I said it was doubtful that such an arrangement would adequately meet the need for public discussion and based my decision partially on the delays encountered by the Symington subcommittee in getting its transcripts cleared for publication.

Under Secretary Johnson had noted that time was a problem, but only in that the present extension ran until September 26.

The situation was left, as of July 24, that Under Secretary Johnson would consult the Secretary on whether the agreement would be submitted to the Congress as a treaty or, if not, whether the Under Secretary would agree to come in open session and discuss its significance and the interpretations given to it by the administration.

The Department's decision was to be delivered to the committee the following Monday or Tuesday—July 27 or 28. On Tuesday, Assistant Secretary of State David Abshire informed the Chief of Staff, Mr. Marcy, that plans for an early signing were being put off and, therefore, there was no rush in the Department replying to the committee request for a treaty or a hearing.

Without hearing from the Department, but realizing that time to discuss the matter was limited by the September 26 deadline, I decided to review the agreement against past testimony on Spain given the committee. Some questions occurred to me that were not apparent in the few hours I had to study the agreement during the committee session. My statement of August 3 was designed to raise some of these questions and present my views to the Senate. It must be remembered that although this matter was undergoing debate in Spain both in its legislative body, the Cortes, and in the press, nothing was being discussed in this country thanks to the security classifications attached by the administration.

When a meeting with Secretary Rogers was set for yesterday, I expected it would represent an answer to my request for some form of public discussion. I was not only disappointed that the decision was made against submitting a treaty, but surprised that a signing date was set for tomorrow which would totally eliminate the opportunity for any rational public discussion before the administration went ahead.

Such a step not only represents continuation of the questionable past policy of making alliances without congressional approval; it also violates the inherent necessity for officials of the executive and legislative branches to respect the position of the other, even in matters over which they disagree.

The administration may gain a tactical advantage on the Senate floor in debate over the Spanish agreement by having already signed it and thus committed the prestige of this Nation toward fulfillment of its terms. But due to the manner in which some officials acted in order to keep secret the terms of the agreement prior to that signing, I believe something has been lost in terms of credibility both here in the Senate and with the Nation as a whole.

I have great respect for the Secretary of State and therefore doubt that this type of maneuvering represents his views.

It appears more likely that in this matter—which is not at the center of his interest these days—the bureaucracy has taken over control of policy. The drive of the bureaucrats to continue past practices by keeping the Spanish agreement in its present, primarily secret form is understandable. Many of the same State Department personnel are involved in today's negotiations that were involved in the agreements of 1963 and 1968. For them, to depart from a past course would be tantamount to admitting that they were wrong before.

Despite the fact that the agreement has been signed, I will press for my proposed amendment to the defense authorization bill. That will guarantee some debate—even if part must be in closed Senate session—if the Department continues to refuse to submit this agreement as a treaty or fails to present witnesses in public hearing so that the details and implications of this matter can be understood.

Far more than base rights in Spain are involved. And it is no answer for any Senator to give that a reassessment of commitments should take place, but that it should start with some country other than Spain.

Spain is where it should start.

[From the Congressional Record—Senate, Oct. 1, 1969]

THE SENDING OF U.S. AIRCRAFT TO SPAIN

Mr. FULBRIGHT. Mr. President, the Committee on Foreign Relations has given considerable study this year to the issues involved in our military bases in Spain. As a result of the committee's efforts, the agreement reached with Spain for extension of our base rights was far more reasonable than that originally sought by negotiators for both Governments. But I still have serious reservations about the wisdom of any agreement to provide military aid to the Franco government, and the Foreign Relations Committee has not yet passed on the administration's request for \$50 million in military aid as payment to Spain. It is

my understanding that efforts will be made to reach agreement with Spain on educational and cultural exchanges and other nonmilitary matters to chart a relationship with her which would be more in keeping with our basic values than the present military-oriented arrangement. I hope that the administration attaches great importance to this project.

In view of the concern expressed by members of the committee over the U.S. military presence in Spain, I was surprised to see an article published in the Baltimore Sun of August 12 which reported that the Department of Defense planned to station 72 new F-4 Phantom fighters at the Torrejon Airbase, near Madrid, to replace 54 F-100 aircraft. It seemed strange that a newer, faster, and more effective fighter was being sent in greater numbers than the obsolete plane it was to replace. So I wrote to Secretary Laird and asked a number of questions about the matter. The reply received from Mr. G. Warren Nutter, Assistant Secretary of Defense for International Security Affairs, reveals a great deal about the lack of effective direction and control by the Department of State over military decisions having significant bearing on delicate foreign policy issues. I ask unanimous consent that the article and the exchange of correspondence be printed in the Record following my remarks.

According to the letter, it was decided "late last year," apparently while the base negotiations were underway, to replace the F-100's with F-4's and at the same time increase the number of aircraft from 18 to 24 for each of the three squadrons involved. The fact that there was to be an increase of 18 in the total number of aircraft stationed at Torrejon, with all the additional supporting personnel that this entailed was not brought to the attention of the Department of State—or the International Security Affairs section of the Defense Department—until at least 8 months later, 2 months after the base agreement had been signed, and over a month after the U.S. mission, in Madrid passed the word, apparently, to the Spanish military. Mr. Nutter wrote:

"When ISA did learn of the proposed increase in early August 1969, we of course promptly informed the Department of State."

If I read between the lines correctly, Mr. Nutter read about it in the newspaper, as I did. Perhaps it will be of some comfort to State Department officials to learn that they were not the only ones in the dark about the Air Force plans, the Defense Department's foreign policy branch was not let in on the secret either.

Seemingly, there were similar problems within the Spanish Government. The letter relates that the U.S. military mission in Madrid told Spanish military officials on June 30 of the "Air Force plans." But either they were not told of the increase in planes and personnel, or the Spanish military men did not pass the information on to higher authority. "In August," the letter states, "the Spanish Government voiced its concern over both the proposed increase in aircraft and the increase in personnel." As a result, the administration has decided to send only 54 F-4's to Torrejon—a 1-for-1 replacement. But, the Defense Department says, this will still result in a "significant upgrading of our capability in the area." And it will mean the stationing of 242 more U.S. servicemen in Spain and a \$500,000 blow to our balance-of-payments position.

Mr. President, this is a small matter as foreign policy problems go. But the fumbling and bumbling within the Defense Department, between State and Defense, and between the United States and the Spanish Government depicted here, in the light of the controversy over the Spanish base issues, illustrates a serious defect in our foreign policy machinery. Foreign policy has, in all too many instances, become the captive creature of decisions made by planners in the Defense Department. Until recent years I believed that the State Department was the agency responsible for the conduct of our foreign affairs. But responsibility must correspond to power and authority. After repeated incidents, large and small, of the military directing our foreign policy—an inevitable product of having bases and military missions scattered around the globe—I am no longer sure that the State Department should be held fully accountable.

There being no objection, the items were ordered to be printed in the RECORD as follows:

"[From the Baltimore Sun, Aug. 12, 1969]

"U.S. MAY STATION F-4's IN SPAIN—ADDED USE OF BASE PLANNED DESPITE RECENT PACT

"WASHINGTON, August 11.—The Nixon administration plans to upgrade United States military capability in Spain by dispatching 72 new F-4 Phantom fighters to the Air Force base at Torrejon early next year, it was learned today.

"Under the plan, likely to bring new criticism from some congressional leaders who want the United States out of Spain entirely, the Phantoms will be substituted for 54 F-100 aircraft.

"The F-4s are the major fighters used in Vietnam. The F-100 dates back to 1954.

"Pentagon officials say the Spanish government was informed of the proposed move over the weekend. Involved is the 10th Air Force's 401st Tactical Fighter Wing at Torrejon, near Madrid.

"Only six weeks ago the U.S. and Spain announced a joint agreement limiting American use of the bases to September 26, 1970 with an additional 12 months provided for withdrawal of units.

"The Spanish have issued public statements proclaiming their desire and intent to have full control over the bases after that.

"Senator J. W. Fulbright, D., Ark., chairman of the Foreign Relations Committee, has questioned whether the U.S. needs any bases in Spain. He accepted the recent limited extension of the U.S.-Spanish agreement only as a step toward an eventual U.S. pullout.

"FOR RECEIVING POINT

"Defense officials make it quite clear in interviews that the administration has future plans for the Spanish bases and hopes to negotiate another extension next year.

"The Pentagon proposes, for example, to use Torrejon as a receiving point for the jumbo C-5A transport planes once they begin making military airlift command flights out of the United States.

"Defense officials say the Spanish bases are of great military importance to the United States but acknowledge that 'we've never said they are absolutely vital to our survival.

"A simple glance at the southern flank of NATO and you can see that the United States must have the capability of reinforcing there in any war," said an official, pointing to a map of the Mediterranean.

"Furthermore, with France leaving the North Atlantic Treaty Organization and forcing the United States to give up its bases there, more American air traffic is being routed through Spain.

August, 28, 1969.

"Hon. MELVIN R. LAIRD,

"Secretary of Defense,

"Washington, D.C.

"DEAR MR. SECRETARY: The enclosed news item reports that the Department of Defense plans to replace 54 F-100 aircraft at the Torrejon Air Base in Spain with 72 F-4 aircraft.

"As you know, this Committee has been quite interested in matters relating to U.S. bases in Spain. In view of this, I would appreciate your providing the Committee with the following information:

"1. What is the mission of the F-100 squadrons that are currently stationed at Torrejon? How many F-100 pilots are assigned to Torrejon? What is the average length of time?

"2. What will be the mission of the F-4 squadrons to be stationed at Torrejon? How many F-4 pilots will be assigned to Torrejon?

"3. Does the mission of the tactical fighter aircraft at Torrejon require that the number of F-4s (72) be increased from the number of F-100s (54) that are presently assigned?

"4. How was the Spanish Government informed of the change in aircraft? What explanation was given for the increase in the number of aircraft?

"5. What was the reaction of the Spanish Government to the change in aircraft and the increase in number to be stationed at Torrejon? What was the reaction of the Spanish press in Madrid to announcement of the change and increase in aircraft?

"6. What will happen to the F-100 aircraft that are now stationed at Torrejon after the changeover to F-4s?

"7. Was the Department of State consulted and its approval obtained prior to the decision to send the additional aircraft?

"8. Do you think that the Spanish Government will attach, or that it should attach, any political significance to the move?

"9. Will this result in the stationing of additional U.S. military personnel in Spain? If so, how many and what is the estimated impact of this on our balance of payments?

"Sincerely yours,

"J. W. FULBRIGHT, *Chairman.*

"ASSISTANT SECRETARY OF DEFENSE,
"Washington, D.C., September 20, 1969.

"Hon. J. W. FULBRIGHT,

"Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

"DEAR MR. CHAIRMAN: Secretary Laird has asked that I reply to your August 28 letter concerning plans to replace aircraft stationed in Spain.

"The 401st Tactical Fighter Wing is homebased at Torrejon and is presently equipped with 54 F-100 aircraft. The wing's mission is to provide aircraft in support of operational missions at forward bases in the Mediterranean area essential to the defensive strength which deters attack on Western Europe. Elements of the 401st deploy from Torrejon to these forward bases at regular intervals. The conversion from F-100 aircraft to F-4 aircraft will in no way affect the nature of the mission.

"I wish to point out that USAF tactical fighter wings normally have 72 aircraft. Since the mid-1950's, CONUS-based wings have been organized into four squadrons of 18 aircraft each, while overseas-based units have three squadrons of 24 aircraft each. (Most squadrons in the Far East today are equipped with 18 aircraft each—either because they were deployed with that equipment from CONUS, or because of aircraft attrition in that area). When the 401st was sent to Spain in 1966, its three squadrons, coming from CONUS, were organized on CONUS equipment levels, i.e., 18 aircraft per squadron. Due to the shortage of F-100's generated by attrition in Southeast Asia, the six aircraft deficiency in each of the three squadrons was never made up.

"When it was decided late last year to convert the wing to F-4's, the decision was concurrently made to increase the number of aircraft in each squadron from 18 to 24 in order to bring the 401st into line with all other tactical fighter wings based in Europe.

"Both the Department of State and the Department of Defense had been aware of Air Force plans to modernize the 401st TFW to perform its current mission. The technical details of such conversions were not normally and were not in this case submitted to my office or to the Department of State for approval. Since the number of aircraft involved did not exceed normal equipment levels for a tactical fighter wing, the fact that the conversion included an increase in numbers to bring the 401st to authorized strength was not brought to the attention of ISA or State. When ISA did learn of the proposed increase in early August 1969, we of course promptly informed the Department of State.

"On June 30, 1969 the JUSMG-MAAG in Madrid advised the Spanish High General Staff—the usual contact point for such matters—of the Air Force plans. The Spanish were informed that the modernization would permit the 401st to carry out its mission fully.

"Most Madrid newspapers gave prominent coverage on August 11 to the proposed conversion, based on an Associated Press story. For the most part these accounts were factual and straightforward. The official Spanish wire service did comment: 'Generally well informed circles in Madrid emphasize contradiction between the announcement and the current phase of negotiations on bases between both countries'. The report continued to say, however, that the shipment of F-4E's did not imply any change in the terms of the existing U.S.-Spanish agreements. Madrid papers also carried a report from Washington explaining that the new planes were only a normal replacement of old aircraft and not part of any diplomatic decision about the bases.

"In August, however, the Spanish Government voiced its concern over both the proposed increase in aircraft and the increase in personnel. Due to these concerns, the Departments of State and Defense recently have agreed that the 401st conversion shall be limited to one-for-one, i.e., only 54 F-4 aircraft will be sent to Torrejon. The Spanish Government has been informed of this decision. The Spanish Government has been assured that the replacement represents only a modernization of equipment and bears no political significance as far as the status of the bases or U.S.-Spanish relations in general are concerned at present or in the future.

"The 401st TFW is not presently equipped to carry out its mission fully, because of the shortage of 18 aircraft. The replacement of the 54 F-100's by 54 F-4's will not remedy this deficiency; nevertheless, the increased performance of the F-4 compared to the F-100 will contribute to a significant upgrading of our capability in the area.

"The 401st has approximately 70 F-100 pilots. Their average tour of duty at Torrejon is three years. Conversion to F-4's will result in a net personnel increase at Torrejon of 242 men; estimated balance of payments impact is about \$500,000 annually. The personnel increase is due in part to the fact that the F-4 is a two-seat aircraft, and the number of flying personnel assigned when the F-4's are phased in will be 144; in addition, since the F-4 is a more complex aircraft, there will be an increase in the number of maintenance personnel. The F-100 aircraft released from the 401st conversion are scheduled for redistribution to support the authorized unit equipment levels of other active Air Force and Air National Guard F-100 units.

"I hope that this information will be useful to you.

"Sincerely.

"G. WARREN NUTTER."

INTRODUCTION OF SENATE RESOLUTION ON UNITED STATES-SPANISH BASE AGREEMENT, SEPTEMBER 22, 1970

Mr. CHURCH. Mr. President, I am introducing today a resolution dealing with the recently renewed base agreement between the United States and Spain. The resolution would express the sense of the Senate that nothing in this agreement shall be construed as a national commitment by the United States to defend Spain.

On August 6, 1970, as Senators know, Secretary of State William P. Rogers and the Spanish Foreign Minister Sr. Lopez Bravo signed an Executive Agreement entitled an "Agreement of Friendship and Cooperation between the United States and Spain."

Before the signing, the Senate's Committee on Foreign Relations had requested that this executive agreement be submitted to the Senate for approval as a treaty, following the traditional advice and consent procedure. The suggestion, however, was rejected by the Administration.

I have told previously the story of a "double event" (vide, *Congressional Record* of August 25, 1970, p. S14119-S14136) which occurred in the two countries prior to the signing. Ironically, in both Madrid and Washington, attempts were made to publicly examine the impending agreement before it became binding, but these efforts were ignored.

Following the signing, the Senate Foreign Relations Committee still felt that the terms of the Agreement needed to be clarified in public. Accordingly, the Committee pressed the State Department for hearings, and these were agreed to. On August 26, 1970, Under Secretary of State U. Alexis Johnson and Deputy Secretary of Defense David Packard appeared before the Committee, in both public and executive sessions, to explain—perhaps "translate" would be a better term—the scope and intent of the Agreement.

Under Secretary of State Johnson declared, in his prepared statement, that the United States has made no commitment, secret or otherwise, pledging us to the defense of Spain. With reference to the Agreement's preamble to the effect that both Governments "will make compatible their respective defense policies," and in regard to a phrase in Article 30 of the Agreement which states that "each Government will support the defense system of the other," Mr. Johnson emphasized that these phrases "cannot reasonably be interpreted as entailing any defense commitment" on the part of the United States toward Spain.

"Our undertaking to provide military assistance," the Under Secretary said, "is, in accordance with the words of the agreement, 'conditioned by the priorities and limitations created by the international commitments of the United States.' This language alone" he continued, "should make it clear that our Agreement with Spain does not embody any commitment; if the Agreement with Spain were regarded as a commitment, this phrase would have read 'created by the other international commitments of the United States,' and it does not read that way."

Mr. Johnson explicitly affirmed that the United States has given no secret pledge to defend Spain from external adversaries and has assumed "absolutely no obligation" to defend the Franco Government from insurrection or rebellion from within.

Mr. President, I ask unanimous consent that the full text of Under Secretary of State Johnson's prepared remarks be inserted in the *Record* at this point. (See pp. 1-17.)

The Deputy Secretary of Defense gave corroborating testimony, saying that the Agreement pledged us only "to defend U.S. forces if they are attacked." In any other circumstances, according to Mr. Packard, the Agreement commits the President to no course of action to be taken without Congressional consent.

There were two reasons given to explain why the Administration concluded it was not necessary to submit the new Agreement as a treaty to the Senate. First, according to the witnesses, the consent of Congressional leaders had been obtained in 1953, including certain members of the Senate Foreign Relations Committee, to handle the original base agreement with Spain by means of an Executive Agreement. Secondly, Mr. Johnson testified, "the Administration did not consider the new Agreement a commitment to Spain of the kind which called for Senate approval." He argued that "to submit it for ratification as though it did constitute a commitment would, in fact, carry with it an implication of a commitment that we did not desire it to have."

During the hearing, I inquired of Under Secretary Johnson about the 10,000 or more American military personnel stationed on Spanish soil, and whether or not their very presence didn't make for a tacit "commitment" to defend Spain. I ask unanimous consent that the transcript of that exchange be inserted in the *Record* at this point. (See p. 21)

Mr. President, I also asked about the joint military exercises of U.S. and Spanish forces and whether or not these didn't give at least the appearance of a "commitment." I ask unanimous consent that the transcript of that exchange be inserted here in the *Record*. (See pp. 21-23.)

In further discussion, Senator Case of New Jersey addressed himself to the very heart of the Committee's inquiry. I ask unanimous consent, Mr. President, that pertinent portions of his questioning be inserted in the *Record* at this point. (See pp. 26-28.)

Senators will recall that it was a little more than a year ago (June 25, 1969) that the Senate, by a vote of 70 to 16, approved the National Commitments Resolution. We then took the position that a national commitment of the United States results from "affirmative action taken by the executive and legislative branches of the United States Government" expressed by means of a "treaty, convention, or other legislative instrumentality specifically intended to give effect to such a commitment."

In compliance with this principle, the new contract with Spain cannot contain a "national commitment" on the part of the United States which the Senate will recognize, since an executive agreement is not a "treaty, convention, or other legislative instrumentality."

Moreover, high ranking officials of the Executive Branch of the Government have themselves testified that the new Agreement entails no commitment on our part to defend Spain.

The Senate should now act to settle any doubt and to avoid any erosion by time or practice of this significant testimony. The constitutional responsibilities of the Senate, the role of the Congress as a co-equal branch of this Government, and the need to fix clearly and strongly in the mind of the Executive and in the records of this Agreement, all require that the Senate state without equivocation that this Agreement does not constitute a national commitment by the United States to the defense of Spain.

The text of the resolution follows:

[S. Res. 469, 91st Cong., second sess.]

RESOLUTION To express the sense of the Senate on the Agreement of Friendship and Cooperation between the United States and Spain

Whereas the Committee on Foreign Relations, in accordance with its responsibility to the Senate to consider matters related to "relations with foreign nations generally", treaties", and "intervention abroad", as provided in the Legislative Reorganization Act of 1946, as amended, has examined the Agreement of Friendship and Cooperation between the United States and Spain, signed in Washington on August 6, 1970; and

Whereas on August 26, 1970, the committee received testimony from the Under Secretary of State for Political Affairs and the Deputy Secretary of Defense

FD 13.5

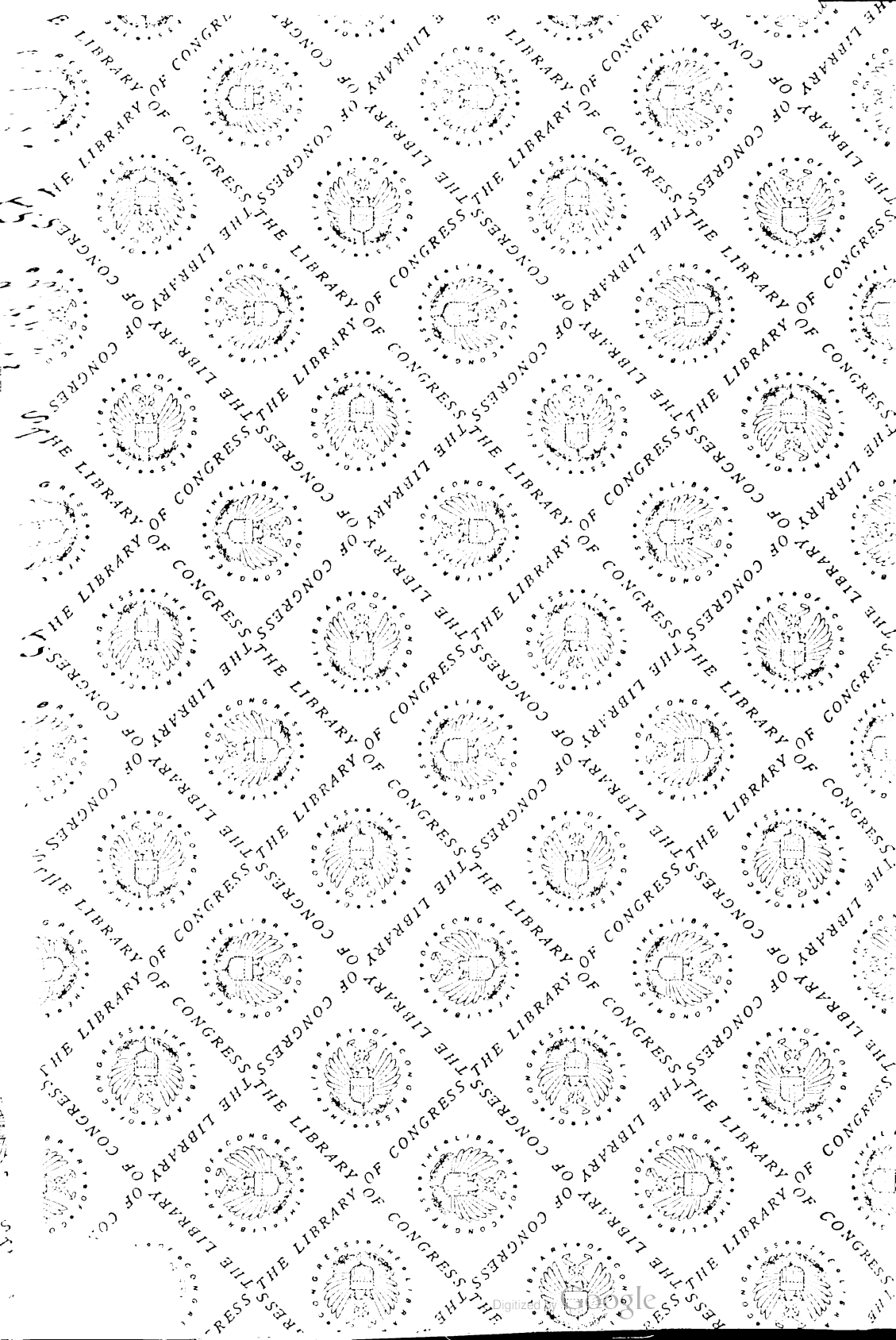
to the effect that the aforementioned agreement entails no national commitment on the part of the United States to the defense of Spain; and

Whereas the said agreement is not in consequence of "affirmative action taken by the executive and legislative branches of the United States Government" expressed by means of "a treaty, convention, or other legislative instrumentality specifically intended to give effect to such a commitment", as provided in S. Res. 85, Ninety-first Congress, first session: Now, therefore, be it

Resolved, That it is the sense of the Senate that nothing in the said agreement shall be construed as a national commitment by the United States to the defense of Spain.

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